



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda Planning Commission

Wednesday, March 22, 2023

6:00 PM

Town Hall, 363 N.Main Street and Via Video
Conference

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLANNING COMMISSIONERS PLEASE TAKE NOTICE

Planning Commissioners are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.

You are invited to a Zoom webinar.

When: Mar 22, 2023 06:00 PM Pacific Time (US and Canada)

Topic: Planning Commission

Please click the link below to join the webinar: <https://us06web.zoom.us/j/87507529496>

Or One tap mobile: US: +16694449171,,87507529496# or +17207072699,

Or Telephone: US: +1 669 444 9171 or +1 720 707 2699 or +1 253 205 0468

Webinar ID: 875 0752 9496

To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Chair or Acting Chair calls for public comment on the item you wish to address.

1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR

ITEMS

MANNER OF ADDRESSING THE COMMISSION: All remarks and questions shall be addressed to the Planning Commission; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Chair or Acting Chair. Public comments are restricted to three (3) minutes per speaker.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Chair or Acting Chair may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Chair or Acting Chair, may speak on any topic that may be a proper subject for discussion before the Planning Commission for such period of time as the Chair or Acting Chair may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Commissioners' response to questions and requests made during this comment period.

WRITTEN PUBLIC COMMENTS: Written public comments received after agenda publication are forwarded to the Commissioners as soon as possible after receipt and are available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be emailed to CDD@fortbragg.com.

2. STAFF COMMENTS

3. MATTERS FROM COMMISSIONERS

4. CONSENT CALENDAR

All items under the Consent Calendar will be acted upon in one motion unless a Commissioner requests that an individual item be taken up under Conduct of Business.

4A [23-080](#) Approve Minutes of February 8, 2023 Planning Commission Meeting Minutes

Attachments: [February 8, 2023 Planning Commission Minutes](#)

4B [23-072](#) Consider Adoption of a Resolution Approving the Amended City of Fort Bragg Planning Commission Bylaws

Attachments: [Resolution with Exhibit 1 Planning Commission Bylaws 2023](#)

[Public Comment](#)

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

6. PUBLIC HEARINGS

7. CONDUCT OF BUSINESS



City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-080

Agenda Date: 3/22/2023

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 4A

Approve Minutes of February 8, 2023 Planning Commission Meeting Minutes



City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
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Meeting Minutes Planning Commission

Wednesday, February 8, 2023

6:00 PM

Town Hall, 363 N.Main Street
and Via Video Conference

MEETING CALLED TO ORDER

Chair Logan called the meeting to order at 6:02 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present 5 - Chair Jeremy Logan, Vice Chair Scott Deitz, Commissioner Stan Miklose, Commissioner Jary Stavely, and Commissioner David Jensen

1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS

Public Comment was received from Jacob Patterson.

2. STAFF COMMENTS

Assistant City Manager McCormick informed the Planning Commission about Associate Planner Heather Gurewitz' departure from the City. She discussed the plan for this meeting.

3. MATTERS FROM COMMISSIONERS

Commissioner Dietz spoke about the accessory dwelling unit that was supposed to go to Planning Commission to get a variance. Assistant City Manager McCormick explained that a variance that was initially thought to be necessary was not needed and was processed as a building permit instead. Commissioner Dietz requested that Staff report on the State's exemptions for ADU's. Assistant City Manager McCormick advised the Commissioners on the grant funding to update the Inland Land Use and Development Code; ADU ordinance; and the Tiny Home Ordinance.

4. CONSENT CALENDAR

4A. [22-634](#) Approve Minutes of the December 14, 2022 Planning Commission Meeting

A motion was made by Commissioner Miklose, seconded by Commissioner Stavely, that the Consent Calendar be approved. The motion carried by the following vote:

Aye: 5 - Chair Logan, Vice Chair Deitz, Commissioner Miklose, Commissioner Stavely and Commissioner Jensen

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

6. PUBLIC HEARINGS

7. CONDUCT OF BUSINESS

7A. [22-630](#) Recognize Outgoing Planning Commissioners Michelle Roberts and Andrew Jordan

Chair Logan and Commissioner Miklose recognized prior Commissioners Michelle Roberts and Andrew Jordan for their service. Assistant City Manager McCormick told Commissioners that the plaque for Andrew Jordan would be at City Hall and Staff would reach out to him.

7B. [23-011](#) Perform Business Operations Established in Bylaws for 2023 Planning Year

Assistant Planner Peters presented the prepared report and responded to the Commissioners' questions related to terminology, departmental staffing, and when the approved Bylaws will go into effect. One change was requested. The amended Bylaws and corresponding Resolution will be brought to the next meeting for a vote.

Public Comment was received by Jacob Patterson.

A motion was made by Vice Chair Deitz, seconded by Commissioner Miklose, that Commissioner Logan be appointed Chair. The motion carried by the following vote:

Aye: 5 - Chair Logan, Vice Chair Deitz, Commissioner Miklose, Commissioner Stavely and Commissioner Jensen

A motion was made by Commissioner Miklose, seconded by Commissioner Jensen, that Commissioner Deitz be appointed Vice-Chair. The motion carried by the following vote:

Aye: 5 - Chair Logan, Vice Chair Deitz, Commissioner Miklose, Commissioner Stavely and Commissioner Jensen

7C. [22-631](#) Discuss Formation of Planning Commission Ad Hoc Committee for Mill Site Planning

Commissioners discussed the formation of a Planning Commission Ad Hoc Committee for the Mill Site Planning. Assistant City Manager Sarah McCormick offered for the Ad Hoc Committee to use the Conference Room at City Hall, and receive assistance from Staff and City Consultant Marie Jones. The Committee would provide a report and possible recommendations in six months. Chair Logan established the Ad Hoc Committee, which will consist of Vice-Chair Deitz and Commissioner Jensen.

Public Comment was received by Shelley Greene and Jacob Patterson.

ADJOURNMENT

Chair Logan adjourned the meeting at 7:30 p.m.

Jeremy Logan, Chair

Humberto Arellano, Administrative Assistant

IMAGED (_____)



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Phone: (707) 961-2823
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Text File

File Number: 23-072

Agenda Date: 3/22/2023

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 4B

Consider Adoption of a Resolution Approving the Amended City of Fort Bragg Planning Commission Bylaws

RESOLUTION NO. PC__-2023

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FORT BRAGG
AMENDING BYLAWS FOR THE FORT BRAGG PLANNING COMMISSION**

WHEREAS, Fort Bragg Municipal Code Chapter 2.20 — PLANNING COMMISSION, provides in part that the Planning Commission shall have the power, by resolution, to adopt rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties; and

WHEREAS, on February 8, 2023, the Planning Commission held a meeting to consider whether or not the existing bylaws are consistent with current practices and the Inland General Plan and the Coastal General Plan; and

WHEREAS, the adoption of bylaws is exempt from compliance with CEQA; and

WHEREAS, based on all the evidence presented, the Planning Commission finds that the attached Fort Bragg Planning Commission Bylaws (2023):

1. Are consistent with the goals and policies of the City of Fort Bragg Inland General Plan and the Fort Bragg Coastal General Plan; and
2. Are consistent with current practice of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Fort Bragg does hereby amend as its rules pursuant to Section 2.20.100 that certain document entitled FORT BRAGG PLANNING COMMISSION BYLAWS (2023) as set forth more particularly in Exhibit "A" attached hereto and made a part thereof.

The above and foregoing Resolution was introduced by Planning Commissioner _____, seconded by Planning Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 22nd day of March, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jeremy Logan, Chair

ATTEST:

Humberto Arellano, Administrative Assistant

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS
03/22/2023

I. PURPOSE

The purpose of the bylaws of the Fort Bragg Planning Commission is to establish its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. MEETINGS

- A. The Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regularly held meeting of the year, the Commission may adopt a specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Fort Bragg Municipal Code§ 2.20.060, 2.20.090 and 2.20.100)
- B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California or virtually if resolved by the body in accordance with AB361. The meetings will be conducted in person, via webinar and televised on local TV as well as livestreamed on the City's website. (Fort Bragg Municipal Code §2.20.100)
- C. A special meeting of the Planning Commission may be called at any time by:
 - 1. The Chair; or,
 - 2. In the Chair's absence, by the Vice-Chair; or,
 - 3. By a majority of the members of the Planning Commission; or
 - 4. The City Manager, Community Development Director, or City Staff

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, to each member of the Planning Commission at least twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk and on the City's website. The only business that may be considered at a special meeting is the business shown on the notice. (Fort Bragg Municipal Code §2.20.100)

- D. All regular and special meetings shall be open to the public. (Fort Bragg Municipal Code §2.20.100)

- E. The order of business of the Planning Commission shall be as follows:
1. Call to Order
 2. Pledge of Allegiance
 3. Roll Call
 4. Public Comments on (1) Non-Agenda Items & (2) Consent Calendar Items
 5. Matters from Staff
 6. Matters from Commissioners
 7. Consent Calendar
 8. Disclosure of Ex Parte Communications on Agenda Items
 9. Public Hearings
 10. Conduct of Business
 11. Adjournment
- (Fort Bragg Municipal Code §2.20.100)

- F. The adjournment time for all Commission meetings shall be 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting. If a public hearing is underway at adjournment, the Planning Commission may continue the meeting to a future date certain. (Fort Bragg Municipal Code §2.20.100)

III. **OPERATIONS**

- A. There shall be five (5) members of the Planning Commission appointed by the City Council. Each member of the City Council may submit the name of a resident of the City as a nominee for a seat on the Planning Commission. The City Council as a whole shall vote to appoint the nominee, the appointment requiring the affirmative vote of at least three (3) City Councilmembers. (Fort Bragg Municipal Code §2.20.020)
- B. Planning Commission members shall be seated for a potential term coinciding with that of the nominating City Councilmember, provided, however, that the commissioners serve at the will of the City Council. The City Council may remove any Planning Commissioner at any time through the affirmative vote of at least four (4) of the City Councilmembers. (Fort Bragg Municipal Code §2.20.020)
- C. A majority of appointed Planning Commissioners constitutes a quorum for the transaction of business. (Government Code §36810)
- D. At the first regularly held meeting of the year, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair as the first order of business of the meeting. (Fort Bragg Municipal Code §2.20.050)

- E. At the first regularly held meeting of the year, the Commission may discuss and adopt a work schedule for the year as a guide for work on the General Plan of the City. (Fort Bragg Municipal Code §2.20.100)
- F. The Community Development Director or designee shall provide updates to the Commission of all major current planning projects and all long range planning activities at the request of the Chair.
- G. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Fort Bragg Municipal Code §2.20.010)
- H. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee. (Fort Bragg Municipal Code §2.20.100)
1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
 2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
 3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.
 4. If the Commission has a vacancy, all Ad Hoc committee activities shall cease until the Commission is fully seated with all five members, in order to avoid any Brown Act violations.
- I. The Chair shall decide all questions of order.
(Fort Bragg Municipal Code §2.20.100)
- J. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.
(Fort Bragg Municipal Code §2.20.100)

- K. In the event of a tie vote, the motion shall fail.
(Fort Bragg Municipal Code §2.20.100)
- L. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action for reconsideration took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.
- M. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject. (Fort Bragg Municipal Code §2.20.100)
- N. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting. (Fort Bragg Municipal Code §2.20.100)
2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.
- O. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented, unless that applicant has submitted a formal written request for the Commission to consider their project application without the applicant's presence.
- P. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member. Section 2.20.080 reads as follows: In the event a member of the Commission does not attend meetings for a period of 60 days, unless excused for cause by the Chairperson of the Commission, the office of the member shall be deemed to be vacant and the term of the member ipso facto terminated. The Secretary of the Commission shall immediately notify the Mayor of the termination.
- Q. If the Planning Director determines that a substantial question of interpretation on a planning matter needs the review of the Planning Commission, the Planning Director shall introduce the matter at the next regular meeting. The matter may apply to City ordinances or to a current project. The Planning Director shall provide a written report to the Planning Commission including the following:
1. A statement of the substantial question for review.

2. A reference to ordinances in the Municipal Code that apply to the substantial question.
3. A reference to the portions of the General Plan that may apply.
4. A reference to previous actions by the Commission or City Council that may apply.

After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning Director for all future interpretations/applications of the planning regulation.

IV. PUBLIC HEARINGS

On any matter before the Planning Commission that requires a public hearing, the following procedure shall be followed:

- A. The Chair will announce the item from the agenda;
- B. The Chair will open the public hearing, stating the time:
 1. The Community Development Director and/or planner will present a staff report and answer questions of the Commissioners;
 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 3. The Chair may:
 - a) Impose a three (3) minute time limit on each person who addresses the Commission;
 - b) Request that testimony be combined through a spokesperson where possible; and,
 - c) Limit each person who has addressed the Commission to a single opportunity to clarify their testimony.
- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
- E. For meetings held in person, speakers before the Planning Commission shall approach the public podium and give their comments. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;
- F. For meetings held virtually via webinar comments can be made in real-time while the item is open to public comment by the Planning Commission.
- G. Spoken public comments are restricted to three minutes each, unless the Chair provides a longer period for public comments. All written comments or emails received before or during the meeting that have not been published with the agenda packet will be forwarded to the Commissioners as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California, during normal business hours.

All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible.

- H. Questions from the public or Commissioners should be directed through the Chair, unless the Chair decides to manage questions in a different manner;
- I. When all comments have been presented to the Commission, any of the following options may be selected:
 - 1. Continue the public hearing until a future date certain if there are issues raised during the hearing that need further clarification or information for application review;
 - 2. Continue the public hearing to an unspecified date if there are issues raised during the hearing that need further clarification or information for application review; in this situation the public hearing shall be re-noticed.
 - 3. Leave the public hearing open while the Commission discusses action proposed to be taken, if the Chair wants to provide an opportunity for further input from the public or the applicant during the deliberation process; and,
 - 4. Close the public hearing, stating the time. The Commission shall then discuss the action to be taken. (Fort Bragg Municipal Code §2.20.100)
- J. For current planning approvals, at the close of the deliberations, a Planning Commissioner shall make a motion to:
 - 1. Adopt the resolution adopting the CEQA document for the review of the project if CEQA review was required; and, if seconded, the Commission will act on the CEQA resolution prior to consideration of the planning resolution; and
 - 2. Adopt the planning permit(s) resolution subject to all special and standard conditions; or
 - 3. Adopt the planning permit(s) resolution subject to all special and standard conditions as modified by the Commission. The Commissioner shall clearly state for the record any proposed modifications, additions or deletions to any special conditions prior to making a motion; or
 - 4. Provide direction to staff to prepare a resolution for denial of the permit. The Commission members indicating that they would vote for denial of the permit shall identify the reasons for denial of the application.
- K. After the motion is made by a Commissioner, it must be seconded by another Commissioner. If there is no second, the motion dies. The Chair will ask for a vote of the Commission only after a motion is made and seconded.
- L. After the Commission votes, the Community Development Director or Planning Staff shall describe the appeal process and timeline (to the City Council, and if relevant, to the Coastal Commission).
- M. For recommendations to City Council on legislative matters, the Planning Commission shall provide recommendations and suggested changes to any proposed ordinance. Recommendations may be made by minute order or by resolution depending on statute.

Arellano, Humberto Jr.

From: Lemos, June
Sent: Thursday, February 9, 2023 1:57 PM
To: Arellano, Humberto Jr.
Subject: FW: Public Comment -- 2/8/2023 PC Meeting, Item No. 7B, PC Bylaws

----- Forwarded message -----

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Date: Wed, Feb 8, 2023 at 12:37 PM
Subject: Public Comment -- 2/8/2023 PC Meeting, Item No. 7B, PC Bylaws
To: CDD User <cdd@fortbragg.com>
Cc: <cityclerk@fortbragg.com>, Ducey, Peggy <pducey@fortbragg.com>, McCormick, Sarah <SMcCormick@fortbragg.com>, Peters, Sarah <speters@fortbragg.com>

Planning Commission & City Team,

I am submitting these comments concerning the draft revisions to the PC bylaws for your consideration tonight or at future meetings when the bylaws are actually going to be revised. My observations and recommendations are presented in the order the corresponding content shows up in the current draft provided by staff.

First, I think many of the recommended changes make sense and I commend the City team for their efforts. In particular, I appreciate removing the odd references to the relevant ordinances and corrections to the code references (although some code citations remain incorrect). Actually, I am not sure why any code references are included in the bylaws at all, particularly since sometimes the reference is the direct source of what is in the bylaws but other times the connection is unclear and the bylaws are the source of the existing or proposed rules and procedures rather than the Muni Code. Fort Bragg Municipal Code § 2.20.100 provides the overall basis for the Planning Commission adopting any rules at all so it doesn't necessarily make sense to constantly refer to it when the broad category doesn't actually require or even suggest that these particular provisions of the bylaws need to be included. In fact, many portions of the bylaws are unnecessary because they are mere recitations of the existing Municipal Code section within Chapter 2.20 about the Planning Commission. There is no need to include redundant content that is already in the Municipal Code because the Planning Commission is already bound to follow the Municipal Code. The purpose of rules of procedure in these bylaws is to clarify how the Planning Commission itself operates and extraneous content like how the Planning Commission is formed or how the City Council appoints or removes members are not germane to what the Planning Commission does. As such, I recommend removing anything from the PC Bylaws that is not a rule or regulation that is being promulgated under the authority of Fort Bragg Municipal Code § 2.20.100 (i.e., anything that isn't directly related to the purpose described in Section I). [Note that actual adoption or revision would require a formal resolution.]

As another introductory matter, it is important to recognize that the California Government Code (and other federal and state laws including both constitutions) need to be followed so the bylaws need to be consistent with outside legal requirements or they won't be able to be implemented anyway. This is described in California Government Code § 65102.

GOVERNMENT CODE - GOV
TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]
(*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [65000 - 66301]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Local Planning [65100 - 65763]

(Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)

ARTICLE 1. Local Planning [65100 - 65107]

(Article 1 repealed and added by Stats. 1984, Ch. 690, Sec. 2.)

65102.

A legislative body may establish for its planning agency any rules, procedures, or standards which do not conflict with state or federal laws.

(Repealed and added by Stats. 1984, Ch. 690, Sec. 2.)

I think it is critical that you keep this in mind as you think about how to revise these bylaws, particularly when some rules or regulations have the potential to implicate the constitutional rights of applicants or other meeting participants.

Specifically, I recommend you consider the following as you review the current draft.

II. Meetings, Part B:

This part should be revised to list hybrid meetings that are not subject to virtual meetings pursuant to AB 361 by adding ", in hybrid format for public participation purposes," immediately prior to "or virtually if resolved..."

I suggest this because we will shortly lose our ability to hold virtual meetings when the Governor's emergency declaration ends on the 28th but we can (and should) continue to offer hybrid-format meetings for purposes of public participation, which is distinct from fully virtual or hybrid-format meetings concerning Planning Commissioner attendance. Planning Commissioners attending remotely trigger the special noticing and related procedural requirements but that doesn't apply to when the City offers remote public participation options.

II. Meetings, Part D:

I would delete this part because it is unnecessary and already required by state law and relevant constitutional provisions.

II. Meetings, Part F:

The new additional final sentence is partially advisable but I would delete the word "certain" because the Planning Commission may continue a public hearing item to a date certain or a date uncertain (you don't want to limit the Planning Commission's options by excluding continuances to a date uncertain) but you don't "continue" an entire meeting to a date certain. Continuing a meeting to a different future date is called "adjourning" the meeting, which always requires a specific date and time. Continuing a public hearing agenda item is technically different and the future meeting is a new meeting rather than an adjourned meeting to finish up the unfinished business. In fact, this same section earlier uses the phrase "continue the meeting" to mean continuing to actively hold the meeting past its usual adjournment time on the same day and it is important to use the same terms in a consistent manner to avoid internal inconsistencies or ambiguity.

III. Operations, Parts A & B:

Rather than worrying about the omitted "er" concerning the procedures of removing a particular commissioner, which, based on my recent review of the legislative history appears to be an unintentional error in how the adopting ordinance was drafted, the better approach is simply removing current parts A and B in their entirety. The PC Bylaws are about how the Planning Commission operates (i.e., actions taken by the PC itself) but the makeup of, appointment to, and removal from the Planning Commission are all actions taken by the City Council. There is no reason to include these two parts because they have nothing to do with how the Planning Commission itself operates. Also, deleting these irrelevant parts removes the technically incorrect reference to the language of § 2.20.020, subd. B., which literally reads "any Planning Commission" rather than "any Planning Commissioner" based on the adopting ordinance that has not yet been formally updated through action of the City Council even if in applying it--something that I don't think has ever happened--would likely involve relying on the legislative history to show the actual intent related to an individual commissioner rather than the entire commission.

III. Operations, Part E:

Although not technically a revision other than pointing out that the meeting schedule is governed by Municipal Code § 2.20.060 not § 2.20.100, which only talks about rules of procedure not meeting schedules, I want to draw your attention to the language of this part. IMO, the City has recently been conflating two things: establishing a meeting schedule pursuant to § 2.20.060 and a work plan/work schedule, which is actually about the substance of what the Planning Commission wants to work on in the coming year. Doing that is actually a power and responsibility that comes from the Government Code and not the Municipal Code. In fact, § 2.20.100 (the cited reference) is solely about rules of procedure and a meeting schedule and work plan are not rules of procedure (i.e., how the PC conducts its activities during meetings). IMO, the development of a work plan is about what policy matters the Planning Commission wants to substantively work on, not simply when it plans to hold its upcoming meetings. Deciding both are important tasks but they aren't the same thing. By not proactively developing a work plan for the Planning Commission, you become beholden to what policy priorities staff presents for your consideration or what the Community Development Committee of the City Council directs you to work on--also both important considerations but not the same activity as proactively addressing Planning Commission priorities for long-range planning activities that staff can use to help develop their own work plans and schedules.

III. Operations, Part P:

This part includes recommended revisions but it is unnecessary or should be revised to reflect what criteria the chair should use to make a determination of when to excuse an absence for cause to avoid arbitrary and capricious decision-making by the PC Chair. The Planning Commission itself holds no collective role in enforcing the provisions of Municipal Code § 2.20.080, which is self-operative (ipso facto means automatic or self-operating, technically "by that very fact or act") and reappointment or a new appointment would be handled by action of the City Council or Mayor. This part would better be used to define the standards and procedure for requesting an excuse for cause from the PC Chair. I have no specific recommendations on what that should be but the way it is written now provides no guidance and is thus likely unnecessary as currently drafted except as a reminder of the effect of missing meetings

IV. Public Hearings, Parts E & F:

These parts should be expanded or combined to explicitly cover hybrid-format meetings (for public comment purposes) in addition to in-person or virtual meetings. Current practice is usually to hear from members of the public in person first, followed by remote participants, and then any additional in-person attendees who did not speak when public comments were first solicited by the Chair. I recommend memorializing that as a revision to both E and F by replacing "For meetings held" with "For comments made" and adding in additional text describing the order comments will be solicited from the different categories of speaker (or being silent and

leaving that to the Chair's discretion). It might be advisable to expand Part F to include the legal requirement to pause the meeting discussion during any technical difficulties that prevent virtual attendees from making their comments or to make it explicit that remote-participation is at the attendee's own risk--this wouldn't apply to fully virtual meetings, where the pause to resolve technical difficulties is legally required--and that technical difficulties during optional hybrid-format meetings related to public participation are not subject to the need to pause the proceeding to allow for the remote participation. That is a major policy consideration but one that some cities are employing for timing and meeting efficiency purposes to not have to be beholden to technical difficulties that would otherwise interfere with the City continuing to conduct business. That risk virtual participants may be subjecting themselves to would obviously need to be disclosed on the meeting agendas themselves so this issue may need further thought and legal counsel input.

IV. Public Hearings, Part G:

This part of the PC Bylaws needs the most attention and will probably require substantial revision.

The addition of the new content about written comments or emails should be removed or moved to its own part. It is not actually related to how the Planning Commission itself conducts meetings but in how the City staff administers public comments. This is also an area that is fraught with legal compliance considerations and, if implemented literally as it is written without additional actions, would not be sufficient to meet the City's legal obligations regarding how written public comments and other information about agenda items need to be processed (IMO). In fact, because City Hall is closed on Wednesdays, which is the day of regular Planning Commission meetings, following just these practices would likely violate the Brown Act as discussed below.

[If you are interested, you may want to review Government Code § 54957.5, particularly subdivisions (b) and (c), which I pasted at the end of my comment, although there is also a lot of case law that explains the scope of what is required that is not necessarily obvious just by reading the statutory language.]

My recommendation is to either delete the references to how staff will deal with written public comments because it is not technically a rule of procedure for how the Planning Commission itself will conduct its meetings and operations or to substantially revise this section--that would be handled in an administrative regulation adopted for staff implementation. If you want to keep the content in the PC bylaws, I am not sure if how written public comments are processed is related to spoken public comments, which is what this part starts with, so it makes more sense to have another part for written public comments rather than being combined in a single part as it is now.

The language should be clarified to state that the submitted comments will be available for public inspection at City Hall during normal business hours and at Town Hall or other meeting locations during the meeting itself. The meeting location part is currently omitted but it is critically important to minimize potential due process and Brown Act violations by not having all relevant information that is being considered by the Planning Commission also be available to the applicant and other public participants in the public hearing prior to and during the public comment period of the public hearing. For example, if written comments are forwarded to all or a quorum of the Planning Commission, they need to be made immediately available for public review or the City likely would have violated the Brown Act based on recent case law. Full compliance could involve having the written comments available at a publicly-accessible location in hard copy at the same time (and likely thereafter) when they have are made available to the commissioners for their consideration. Since City Hall is closed to the public on Wednesdays and regular Planning Commission meetings are held on Wednesdays, the City is not currently meeting this requirement for written comments received on the day of the meeting and then forwarded to the commissioners by staff rather than waiting to distribute them to the commission and public at the meeting itself (likewise for after-hours or weekend comments that are forwarded as they are received).

Finally, the concluding sentence should be deleted because it is not related to how the commission operates and timely written submissions are technically part of the agenda packet and the administrative record for the planning review as they are submitted to the City and processed by staff, not simply when electronic soft copies are published online by staff, potentially the day after the meeting.

IV. Public Hearings, Part I:

This part is somewhat redundant and ambiguous. For example, there is no need to include "if there are issues raised during the hearing that need further clarification or information for application review" and that language is too limiting because there are other reasons to continue a public hearing (e.g., needing more time to digest the relevant materials or more time to solicit additional comments from the public or applicant for complex or controversial items). Moreover, a public hearing may need to be continued when complex or voluminous written comments are submitted and staff or legal counsel needs time to review the submissions, particularly late-submitted comments or applicant/appellant submissions. Finally, the same language is listed in both option 1 for a date certain and option 2 for a date uncertain and that creates ambiguity because including the modifying language suggests the listed situation serve as criteria that must be met to justify that type of the continuance. Alternatively, the first two options could be condensed simply refer to a "future date certain or uncertain" or "future date". I think deleting the modifying language, which is too limiting and not expansive enough is the better option. For land use public hearings, you don't want to unintentionally generate allegations of process violations should the Planning Commission arguably fail to follow its own rules and regulations.

IV. Public Hearings, Part J:

The current wording is somewhat inaccurate and should be revised. This part is written to assume that the recommended action will be an approval. That is too limiting and there are numerous reasons why an application might warrant a denial rather than stacking the deck in favor of approvals through how the rules of procedure are worded. In fact, procedural step 4 under this Part concerns when the Planning Commission is going to deny an application so the introductory language should be revised to include both approvals and denials or step 4 should be removed to its own part dealing with denial motions for planning applications. I recommend the latter because it requires less revision overall.

Regardless, the introductory language for approval motions should be revised to state "For staff-recommended planning approvals" or "For motions to approve planning permits" rather than the awkward and inaccurate "For current planning approvals". Likewise, "shall" should be replaced with "may" because shall is mandatory and thus not accurate unless strictly limited to the process to approve rather than deny a planning application.

Further revisions to the procedural steps are also recommended because it is clear that multiple successive motions will be required to deal with the different resolutions so it should read "make motions to" (and to address other issues). For example, all projects require CEQA review, the issue is if further environmental review under CEQA will be required through a CEQA document like an IS/MND or EIR when an exemption doesn't apply to the project so 1 should read "if further environmental review under CEQA is required" not "if CEQA review was required". If an exemption applies, there is no need to adopt two successive resolutions and a single approval resolution is fine provided it includes a determination by the Planning Commission that the cited exemption or exemptions apply and an adequate explanation of why that is the case is also included. (The proposed actions should be appropriately described in the agenda description for the public hearing in order to avoid Brown Act compliance issues.)

Current step 4 for denials should be revised (or moved to its own part and revised) to make clear that the Planning Commission can also adopt a denial resolution if one was already included in the agenda materials or that they also have the option of having a commissioner or ad hoc committee of two commissioners prepare the denial resolution--Chair Logan prepared a revised draft denial resolution for a particular application in the past

and it was the basis for what the commission adopted rather than the resolutions prepared by staff. It is normal practice for staff or the City Attorney to prepare draft resolutions but that is not a requirement and there are instances when it makes sense for a commissioner or the entire commission itself during a properly noticed meeting to draft their own resolutions or revised resolutions--the commissioners better understand their own reasoning, after all--so it doesn't make sense to limit the commission's options through rules of procedure that only allow staff to perform those tasks or to provide artificially narrow procedures.

IV. Public Hearings, Part K:

Replace "After the motion" with "After a motion" to reflect that some items involve multiple motions.

Best regards,

--Jacob

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607]

(Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]

(Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]

(Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 9. Meetings [54950 - 54963]

(Chapter 9 added by Stats. 1953, Ch. 1588.)

54957.5.

(a) Agendas of public meetings are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay and in compliance with Section 54954.2 or Section 54956, as applicable. However, this section shall not apply to a writing, or portion thereof, that is exempt from public disclosure.

(b) (1) If a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

(i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.

(ii) A local agency shall list the address of the office or location designated pursuant to clause (i) on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with the requirements of subparagraph (A) if all of the following requirements are met:

(i) An initial staff report or similar document containing an executive summary and the staff recommendation, if any, relating to that agenda item is made available for public inspection at the office or location designated pursuant to clause (i) of subparagraph (A) at least 72 hours before the meeting.

(ii) The local agency immediately posts any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(iii) The local agency lists the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.

(iv) (I) Subject to subclause (II), the local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at the office or location designated pursuant to clause (i) of subparagraph (A).

(II) This clause is satisfied only if the next regular business hours of the local agency commence at least 24 hours before that meeting.

(c) Writings that are public records described in subdivision (b) and distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535. This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

(Amended (as amended by Stats. 2021, Ch. 615, Sec. 208) by Stats. 2022, Ch. 971, Sec. 1. (AB 2647) Effective January 1, 2023.)



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Text File

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File Type: Planning Resolution

Agenda Number: 7A

Adopt Resolution Making the Findings That the City of Fort Bragg Acquisition of Six Parcels of Real Property is Consistent With the City's General Plan



AGENCY: Planning Commission
MEETING DATE: March 22, 2023
DEPARTMENT: Community Development
PRESENTED BY: Marie Jones
EMAIL ADDRESS: jsmith@fortbragg.com

AGENDA ITEM SUMMARY

TITLE: Receive Report and Adopt a Resolution Finding that the City of Fort Bragg's Acquisition of Six Parcels of Real Property (Assessor's Parcel Nos. 019-070-07-00, 019-070-010-00, 019-070-11-00, 019-080-14-00, 019-080-16-00 and 019-080-23-00) is Consistent with the City's General Plan

ISSUE:

City staff has been engaged in discussions with the Mendocino Coast Recreation and Park District (the "District") to acquire six parcels of real property (the "Property") located adjacent to Hwy 20 that could potentially be developed for one or more water reservoirs and for open space, habitat preservation and recreational uses. The Fort Bragg Planning Commission must make a finding that the Property's acquisition by the City is in conformance with the City's General Plan before the City Council can make a decision regarding property acquisition.

ANALYSIS:

The City has been exploring various water supply and storage options since the 1990s; including various well options, storage locations and transportation methods. Even with recently completed water projects, the City's existing water sources continue to be impacted by climate change and severe weather, so the City is seeking new water storage to secure safe drinking water for existing and future customers and fire protection.

Several potential water storage properties have been reviewed over the years, and the Mendocino Coast Recreation and Park District (MCRPD) property is the best fit for this potential project, because:

- The property consists of 582 acres (six parcels) that are primarily zoned Timber Production/Forest Land.
- At just shy of one square mile, the property provides enough space for the potential construction of three 45-acre foot reservoirs, which is a similar size to the Summers Lane Reservoir. Three reservoirs would require approximately 30 acres of the 582-acre site, leaving significant property for habitat conservation and passive recreation uses.
- The site provides the ability for convenient connections to infrastructure allowing gravity flow to the City's raw water line, conveying water to the City's treatment plant.
- The site is close to high power PG&E transmission lines, which would facilitate the installation of floating solar panels on the new reservoirs to generate roughly 3 to 3.5 Mega Watts of electricity.

GENERAL PLAN CONSISTENCY ANALYSIS

The City's Inland General Plan explores **relevant** policies from each Element of the General Plan. The proposed acquisition does not constitute a development project itself and is exempt from CEQA review. Additionally, as an acquisition project, with no proposed development at this time, most of the policies of the General Plan are not applicable to the acquisition because general plan policies are focused on regulating development. Nevertheless, if the City pursues one or more reservoirs or other projects in the future after acquiring the property, the City would have to comply with all policies of the General Plan as well as all applicable provisions of the Land Use and Development Code and the Municipal Code.

This analysis provides a general overview of compliance with relevant General Plan policies. It also includes, for information only, a general analysis of general plan compliance with the potential contemplated future uses of the site by the City, which include:

- Water storage,
- Recreational facilities,
- Open space and habitat conservation, and
- Solar energy production.

Element 3- Public Facilities

The acquisition has the potential to allow the City to implement a number of General Policy Goals through future development projects with regard to Public Facilities policies as follows.

Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.

The proposed acquisition could facilitate the construction of water storage which would allow the City to provide adequate water storage and services for existing and future development.

Policy PF-2.2 Potable Water Capacity: Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies.

The proposed acquisition may allow the City to address all long-term water storage needs of existing and future development.

Policy PF-2.3 Emergency Water Supply: Develop an emergency water supply for disaster preparedness.

Potential water storage facilities would be gravity feed and therefore assist in disaster preparedness as water flow would not depend on electrical supply.

Policy PF-2.4: Potable Water Quality: Maintain the safety of the water supply.

Potential water storage may be located adjacent to existing water storage and would allow the City to more easily secure these facilities.

Element 4- Conservation, Open Space, Energy, and Parks

The acquisition has the potential to allow the City to implement a number of General Policy Goals with regard to the Conservation Element's policies as follows.

Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.

While the property is not currently mapped as a Special Review Area in the City's General Plan, because the property is located outside of the City Limits, the property will likely qualify for inclusion into the sensitive Review Area as the property is largely Pygmy Forest which is considered a rare plant community by the California Department of Wildlife. The proposed acquisition would likely result in preservation of a significant portion of this project site because only a small portion of the site would be developed for water storage, leaving a much larger area for habitat and watershed protection.

Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.

If the City acquires the property, any future projects would require CEQA review and the identification and mapping of all sensitive natural resources.

Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's Inland General Plan are fully met. The required content of the biological report is specified in the Inland Land Use and Development Code.

See analysis for OS-2.1.1 above.

Policy OS-1.4 Maintain Open Space: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.

If acquired, the site would provide significant open space which would be more than adequate to provide an effective wildlife corridor. Even if all three potential reservoirs are eventually permitted and constructed, more than 90% of the site would be retained as open space, which would allow the property to continue to provide wildlife habitat and corridors.

Policy OS-2.3 Preserve Native Vegetation and Trees: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.

If the property is purchased, the City will comply with Policy OS-2.3 by identifying and preserving native vegetation and trees to the maximum extent feasible. Furthermore, the CEQA analysis for any future project would require mitigation for the removal of any special status trees, vegetation or plant communities for any future construction projects.

Policy OS-2.4 Forested Areas: Maintain existing forested areas and reforest parks and streetscapes with new trees as needed. Projects proposed in forested areas are required to meet the requirements of the Special Review Areas.

See analysis for Policy OS-2.3 above.

Policy OS-3.1 Soil Erosion: Minimize soil erosion to prevent loss of productive soils, prevent flooding and landslides, and maintain infiltration capacity and soil structure.

All future proposed projects that might occur on the project site would have to comply with this policy. The property is currently subject to unauthorized off-road vehicular use which has resulted in areas of considerable soil compaction, erosion and degradation. The proposed acquisition has the potential to limit such activities and potentially result in restoration of impacted areas through mitigation associated with a possible future reservoir construction projects.

Policy OS-4.1 Preserve Archaeological Resources: New development shall be located and/or designed to avoid archaeological and paleontological resources where feasible, and where new development would adversely affect archaeological or paleontological resources, reasonable mitigation measures shall be required.

The proposed property acquisition will not result in any impacts to archaeological or cultural resources. Any future development project would comply with this policy.

Policy OS-5.2 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

If the City acquires the property, any future projects would require CEQA review and protection of riparian habitat. Portions of the property will qualify as riparian habitat, however these areas are not mapped. All future development siting efforts would begin with a botanical and wetland delineation to identify areas without riparian habitat in order to ensure to the maximum extent feasible avoidance of such resources.

Policy OS-5.3 No Net Loss of Wetlands: Ensure no net loss of wetlands, as defined by the U.S. Army Corps of Engineers.

See response to OS-5.2 above.

Policy OS-5.4 Protect Aquifers: Protect groundwater aquifers.

The property includes extensive productive aquifers, which may have been impacted by the network of informal roads and off-road vehicular activities that have occurred on the site. Acquisition by the City would allow the city to protect these aquifers from future disturbance by these activities. A future reservoir project would result in cutting of the recharge ability for 30 acres out of the 582 acre site for a 5% reduction in permeability. This would have a minor impact on ground water recharge and would be analyzed as part of a CEQA analysis for any future development projects.

Policy OS-6.1 Pollution in Runoff: Ensure protection of water resources from pollution and sedimentation.

See analysis of Policy OS-5.4 above.

Policy OS-6.2 Minimize Introduction of Pollutants: Development shall be designed and managed to minimize the introduction of pollutants into estuaries, wetlands, rivers and streams to the extent feasible.

This is merely a property acquisition and no development is proposed at this time. If the City pursues a reservoir at this location it will comply with Policy OS-6.2.

Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post- project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.

This is an acquisition and no development is proposed at this time. If the City pursues a reservoir or other development at this location it will comply with Policy OS-6.3.

Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

This is an acquisition and no development is proposed at this time. If the City pursues a reservoir or other development at this location it will comply with Policy OS-6.2.

Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.

As previously mentioned, this acquisition could help to improve water quality at the property by improving control of illegal activities on the property.

Policy OS-8.2 Protect and Restore Open Space: During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, and watercourses as open and natural.

As previously mentioned, this acquisition could result in improved wildlife habitat quality.

Policy OS-8.3 Trails in Open Space: Wherever feasible, plan and construct trails through the greenbelts and open space that connect to the City's trail system with those of State Parks and MCRPD.

This project is not located adjacent to existing City' open space or parks facilities, however this policy does not require trail connections. This is the only feasible location for a potential reservoir system for the City's raw water system, and consequently compliance with this policy is not required.

Policy OS-9.3 Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.

This acquisition project has the potential to provide a variety of recreational facilities. However, no recreational facilities are planned at this time. The large site has the

potential to provide both passive and active recreation facilities that will meet the needs of families, children and teenagers.

Policy OS-9.6 Prioritize Park Acquisitions: Use the following criteria to prioritize acquisition of parkland and open space:

- a) distribution of neighborhood parks/playground facilities and ballfields on a neighborhood basis;
- b) scenic beauty;
- c) relationship to the existing and proposed trail systems and parks;
- d) natural resource protection; and
- e) appropriateness (physical characteristics) of the site to meet specific recreational needs.

The proposed acquisition allows for the potential future use as primarily water storage and habitat conservation, not for use as a recreational park. Thus, arguably this policy does not apply. Nevertheless, the proposed acquisition does meet criteria b) scenic beauty and d) natural resource protection.

Policy OS-10.1 Coordinate with Other Agencies: Coordinate with other governmental entities to procure and develop additional park and recreational facilities.

This acquisition is occurring in coordination with MCRPD, as they are selling the parcel to the City of Fort Bragg. As previously stated, the parcel acquisition is contemplated for a potential use of primarily water storage, so this policy may not apply to the acquisition. However, some of the site may eventually be used for passive or active recreation, at which time the City will coordinate with a variety of governmental agencies on the siting and development of the project(s) as required by the General Plan.

Policy OS-10.4 Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

As previously stated, the parcel acquisition is being considered for potentially the primary use of water storage, so this policy does not apply to this acquisition. Nevertheless, this parcel was initially purchased by MCRPD for a recreational golf course and active recreational uses that included a long public participation process. Furthermore, if the City Council decides to develop any recreational facilities on the site in the future, it would be obligated to include an extensive public participation process for the site selection (within the 600 acre site), design and planning.

Element 7- Safety

The acquisition has the potential to allow the City to implement a number of General Policy Goals with regard to the Safety Element policies as follows.

Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

While this policy does not apply to this acquisition because it is not a development project, it is listed here to make clear that any future development projects, including a water storage reservoir would need to be designed to minimize risks to life and property and ensure structural stability. These are significant community concerns which would be addressed in the siting and design of any future reservoirs.

Policy SF-1.2 Geotechnical report required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.

Please see the analysis in SF-1.1 above. A geotechnical report would be prepared for any future projects on the site proposed for acquisition.

Policy SF-1.3 Alterations to Landforms: Minimize, to the maximum feasible extent, alterations to cliffs, bluff tops, faces or bases, and other natural land forms. Permit alteration in landforms only if erosion/runoff is controlled and either there exists no other feasible environmentally superior alternative or where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.

While this policy does not apply to this acquisition because it is not a development project, it is listed here to make clear that any future development projects, including a water storage reservoir would need to be designed to minimize alterations to landforms.

Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.

Please see the analysis in SF-1.1 above. A geotechnical and soils report would be prepared for any future projects on the site.

Policy SF-2.5: Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.

While this policy does not apply to this acquisition because it is not a development project, it is listed here to make clear that any future development projects, including a water storage reservoir, would be analyzed or the cumulative effects of the development on runoff and discharges on water volumes and velocities on downstream properties.

Policy SF-5.1 Demand for Police Services: Review development proposals for their demand for police services and implement measures to maintain adequate police services.

While this policy does not apply to this acquisition because it is not a development project, it is likely that the acquisition of the property would result in a slight increase in demand for police services to control the currently uncontrolled access on the property. However, this additional demand for services will not impact the department's ability to provide adequate police services.

Element 9- Sustainability

There is only one sustainability policy that has bearing on this acquisition.

Policy S-2.2. Encourage the development and use of alternative sources of energy such as wind, solar and biomass to meet Fort Bragg's energy needs.

The proposed acquisition could help the City further implement this policy because any future Reservoirs would have solar (PV) collectors for their covers which would generate significant alternative energy to offset City energy needs.

RECOMMENDED ACTION(S):

1. Adopt the attached resolution that includes findings that the proposed acquisition of the MRCPD property on Highway 20 is in compliance with the City's General Plan.
- Or
2. Direct staff to complete additional analysis about the acquisition and its consistency with the general plan.

CEQA

This item is not a "project" subject to CEQA under 14 CCR 15378(a) because approval of the Agreement has no potential to result in a direct or reasonably foreseeable indirect physical change in the environment because the purchase will result only in a change of property ownership, with no reasonably foreseeable changes to the Property or the environment in the foreseeable future for the following reasons:

- (1) All potential uses of the Property are preliminary and not binding commitments; and
- (2) The City Council has not adopted a resolution or otherwise formally selected the site for any specific use; and
- (3) The City Council has not appropriated or otherwise authorized any expenditures toward developing or using the property for any purpose; and
- (4) Even though it may be reasonably foreseeable that the City may someday approve plans to use the property for a reservoir or recreational purposes, nothing in the Agreement commits the City to a definite course of action since there are no development plans in existence.

(5) Any proposed future development of the Property would be subject to legally required CEQA review by the lead agency.

Additionally, 14 CCR 15004(b)(2)(A) provides that the City may “designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.”

ATTACHMENTS:

1. Resolution Finding that the Proposed Acquisition for Real Property (Assessor’s Parcel Nos. 019-070-07-00, 019-070-010-00, 019-070-11-00, 019-080-14-00, 019-080-16-00 and 019-080-23-00) is consistent with the City’s General Plan.

NOTIFICATION:

1. MCRPD

RESOLUTION NO. PC0X-2023

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION FINDING THE CITY OF FORT BRAGG ACQUISITION OF SIX PARCELS OF REAL PROPERTY (ASSESSOR'S PARCEL NOS. 019-070-07-00, 019-070-010-00, 019-070-11-00, 019-080-1400, 019-080-16-00 AND 019-080-23-00) IS CONSISTENT WITH THE CITY'S GENERAL PLAN

WHEREAS, the City has been exploring various water supply and storage options since the 1990s; including various well options, storage locations and transportation methods; and

WHEREAS, even with recently completed water projects, the City's existing sources continue to be impacted by climate change and weather disruption, and the City is seeking new water storage to secure safe drinking water for existing and future customers and fire protection; and

WHEREAS, several potential water storage properties have been reviewed over the years, and the Mendocino Coast Recreation and Park District (MCRPD) property is the best fit for the project, because:

- The property consists of 582 acres (six parcels) that are primarily zoned Timber Production/Forest Land.
- The property provides enough space for construction of up to three 45-acre foot reservoirs, which is a similar size to the Summers Lane Reservoir, and three reservoirs would require approximately 30 acres of the 582 acre site, leaving significant property for habitat conservation and passive recreation uses.
- The site provides convenient connections to infrastructure allowing gravity flow to the City's raw water line, conveying water to our treatment plant.
- The site is close to high power PG&E transmission lines, which would facilitate the installation of floating solar panels on the new reservoirs to generate roughly 3 – 3.5 Mega Watts of electricity; and

WHEREAS, the proposed Project is under the jurisdiction of the Inland General Plan as the Project is not located within the Coastal Zone; and

WHEREAS, the Fort Bragg Planning Commission must make a determination that the Project is consistent with the Fort Bragg Inland General Plan prior to City Council's consideration of the acquisition; and

WHEREAS, The property acquisition is not a "project" subject to CEQA under 14 CCR 15378(a) because approval of the acquisition has no potential to result in a direct or reasonably foreseeable indirect physical change in the environment because the purchase will result only in a change of property ownership, with no reasonably foreseeable changes to the Property or the environment in the foreseeable future for the following reasons:

- (1) All potential uses of the Property are preliminary and not binding commitments; and
- (2) Neither the City Council nor the Planning Commission have adopted a resolution or otherwise formally selected the site for any specific use; and

- (3) The City Council has not appropriated or otherwise authorized any expenditures toward developing or using the property for any purpose; and
- (4) Even though it may be reasonably foreseeable that the City may someday approve plans to use the Property for a reservoir or recreational purposes, nothing in the Agreement commits the City to a definite course of action since there are no development plans in existence.
- (5) Any proposed future development of the Property would be subject to legally required CEQA review by the lead agency; and

WHEREAS, 14 CCR 15004(b)(2)(A) provides that the City may “designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.”

WHEREAS, at the March 22nd Planning Commission meeting, the Fort Bragg Planning Commission met and received a staff report analyzing the consistency of the acquisition with the Coastal General Plan and received public comment on this item.

NOW, THEREFORE, the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg General Plan; the staff report, and public testimony submitted as part of the Planning Commission’s regular meetings of March 22, 2023, and Planning Commission deliberations; the Planning Commission of the City of Fort Bragg hereby finds as follows:

- a. The proposed Property acquisition is consistent with the policies of the Inland General Plan.
- b. The proposed Property acquisition would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The above and foregoing Resolution was introduced by Commissioner _____, seconded by Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 22nd day of March 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jeremy Logan, Chair

ATTEST:

Humberto Arellano, Administrative Assistant