

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> August 27, 2014	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> Draft Ordinance amending Chapter 16.40 “Protection of Agricultural Activities” (“Right-to-Farm” Ordinance) of the Monterey County Code to increase protection of property conducting agricultural operations from nuisance claims by strengthening the County’s Right-to-Farm Ordinance to establish noticing requirements to increase awareness of the County’s “Right to Farm Ordinance” and to update the administrative dispute resolution process.	
<b>Project Location:</b> County-wide	<b>APN:</b> County-wide
<b>Planning File Number:</b> REF130040	<b>Applicant:</b> RMA-Planning
<b>Planning Area:</b> County-wide	<b>Flagged and staked:</b> N/A
<b>Zoning Designation:</b> Not Applicable	
<b>CEQA Action:</b> This Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guideline Sections 15060 (c)(3) and 15378 (b)(5)	
<b>Department:</b> RMA-Planning	

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt a Resolution recommending that the Board of Supervisors take the following actions:

- 1) Find that the Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060 (c)(3) and 15378 (b)(5) because the Ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the Ordinance (Exhibit A, Attachment 1) amending Chapter 16.40 “Protection of Agricultural Activities” (“Right-to-Farm” Ordinance) of Title 16 of the Monterey County Code (MCC).

**PROJECT OVERVIEW:**

The Planning Commission continued the subject draft ordinance from their June 25, 2014 hearing to August 27, 2014 and directed staff to make revisions to the draft ordinance, including but not limited to: clarifying whether or not the dispute resolution process was a voluntary process or a mandatory process, making the dispute resolution process “attractive” to the parties involved in the dispute, addressing the grievance process and revising the make-up of the Grievance Committee. Staff has revised the draft ordinance that went before the Planning Commission on June 25, 2014 to incorporate revisions based on comments made at the June 25 hearing (Exhibit B). The most significant changes include:

- Clarification that the grievance process is a voluntary dispute resolution process.
- Elimination of any reference to exhaustion of administrative remedies prior to filing a court action in connection with any dispute.
- Revised Section 16.40.050 to provide for a “Voluntary Dispute Resolution Process” and to eliminate the Grievance Committee and transfer the responsibility to hear and mediate disputes relating to agricultural operations to the Agricultural Commissioner, a County official.
- Eliminated Section 16.40.050. F. Costs. in its entirety to provide for a “no cost” voluntary dispute resolution process to be facilitated by the Monterey County Agricultural Commissioner’s Office.

**BACKGROUND:**

The proposed Ordinance (Exhibit A, Attachment 1) would implement the 2010 Monterey County General Plan Policy AG-1.9 which reads as follows:

*Agricultural operations in accord with all applicable laws and regulations and consistent with properly accepted customs and practices shall be given increased protection from nuisance claims through strengthening the County's "Right-to-Farm" ordinance. Said ordinance shall establish the strongest, most effective possible noticing requirements to make property owners located near agricultural operations aware of potential conditions that are accepted practices within Monterey County.*

The 2010 Monterey County General Plan applies to the County's unincorporated non-coastal areas, but because MCC Chapter 16.40 is currently a county-wide Ordinance, the proposed Ordinance, if adopted, would apply county-wide. The Coastal Act also requires that the maximum amount of prime agricultural land shall be maintained in production to assure the protection of the area's economy. Currently, the majority of the Coastal Land Use Plans have agricultural protection policies such as the North County Land Use Plan (LUP 2.6.1), the Big Sur Land Use Plan (LUP 3.6.1), and the Carmel Land Use Plan (LUP 2.6.2).

The proposed Ordinance is intended to reduce conflicts at the agricultural/urban boundary by educating residents, especially newcomers, as to the realities of living near modern agricultural operations. The theory is if residents are advised that dust, noise, spray and odors are typical accompaniments to agricultural practices, residents will be less likely to complain or go to court over such annoyances, thereby reducing the risk to the agriculture industry. It is important to note, however, that this Ordinance does not prevent farmers from being sued over agricultural practices, even those that are accepted customs and standards.

The proposed Ordinance would amend Monterey County Code (MCC) Chapter 16.40 entitled "Protection of Agricultural Activities" which is commonly referred to as the "Right-to-Farm" Ordinance. Exhibit C provides the existing MCC Chapter 16.40 in its entirety, with the proposed amendments. Proposed amendments are shown in underline for proposed new language and in ~~strikethrough~~ for proposed deletions.

**CEQA:**

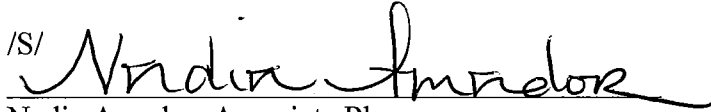
The proposed Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060 (c)(3) and 15378 (b)(5) because the Ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ Agricultural Commissioner
- √ Agricultural Advisory Committee

The project was referred to the Special Ad Hoc Subcommittee of the Agricultural Advisory Committee on November 4, 2013. On July 24, 2014, the Agricultural Advisory Committee (Committee) unanimously recommended approval of the draft Ordinance, as revised (see Exhibit B), in substantially the same form as presented to the Monterey County Planning Commission

and the Monterey County Board of Supervisors. Minutes of past meetings with the Agricultural Advisory Committee and the Ad Hoc Subcommittee of the Agricultural Advisory Committee are included in Exhibit D.

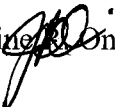
/s/ 

Nadia Amador, Associate Planner  
(831) 755-5114, amador@co.monterey.ca.us

August 12, 2014

Cc: Front Counter Copy; Planning Commission (10); Fire Protection Districts; RMA-Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; Agricultural Commissioner, Attn: Christina McGinnis; Monterey County Sheriff; Monterey County Treasurer-Tax Collector; Office of the County Counsel; California Coastal Commission; Monterey County Association of Realtors; Title Companies located in Monterey County: Chicago Title Co. (3 offices), First American Title Insurance (3 offices), Old Republic Title Company (3 offices); Legal Offices listed as Affiliates by the Monterey County Association of Realtors: Philip Daunt, Paul D. Gullion, Horan/Lloyd, Lombardo & Gilles, Mallery & Demaria, Rossi, Hamerslough, Reischl & Chuck; Natural Hazard Disclosures consultants listed as Affiliates by the Monterey County Association of Realtors: JCP-LGS Disclosures, Property I.D., Natural Hazard; Jacqueline Onciano, RMA Services Manager; Nadia Amador, Project Planner; Molly Erickson, The Open Monterey Project; Amy White, LandWatch; Planning File REF130040.

Attachments: Exhibit A Draft Planning Commission Resolution, including:  
Attachment 1- Draft Right to Farm Ordinance (clean version).  
Exhibit B Draft Ordinance considered by the Planning Commission on June 25, 2014 which incorporates revisions based on comments made at that hearing.  
Exhibit C Draft Ordinance with Chapter 16.40 in its entirety with proposed amendments shown in underline and strikethrough.  
Exhibit D Monterey County Agricultural Advisory Committee and the Ad Hoc Subcommittee Minutes.

This report was reviewed by Jacqueline  Onciano, Planning Services Manager, Long Range Planning Team.

**EXHIBIT A  
DRAFT RESOLUTION**

**Before the Planning Commission in and for the  
County of Monterey, State of California**

**RESOLUTION NO. ----**

Resolution of the Monterey County Planning Commission recommending that the Board of Supervisors take the following actions:

- 1) Find that the Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060 (c)(3) and 15378 (b)(5); and
- 2) Adopt the Ordinance (Attachment 1) amending Chapter 16.40 "Protection of Agricultural Activities" ("Right-to-Farm" Ordinance) of the Monterey County Code.

[REF130040, Right to Farm Ordinance, County-wide]

**The proposed Ordinance (REF130040) amending Chapter 16.40 of Title 16 of the Monterey County Code regarding "Protection of Agricultural Activities" commonly referred to as the "Right-to-Farm Ordinance" came on for public hearing before the Monterey County Planning Commission on June 25, 2014 and on August 27, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission forwards the following recommendation to the Board of Supervisors with reference to the following facts:**

**RECITALS**

1. The 2010 Monterey County General Plan, adopted on October 26, 2010, includes Policy AG-1.9 which states as follows:

*Agricultural operations in accord with all applicable laws and regulations and consistent with properly accepted customs and practices shall be given increased protection from nuisance claims through strengthening the County's "Right-to-Farm" ordinance. Said ordinance shall establish the strongest, most effective possible noticing requirements to make property owners located near agricultural operations aware of potential conditions that are accepted practices within Monterey County.*

This ordinance implements Policy AG-1.9 by strengthening the County's "Right to Farm" Ordinance which is codified at Chapter 16.40 of the Monterey County Code.

2. The Board of Supervisors has also recognized the importance of protection of agricultural activities in the coastal zone through its enactment of regulations that apply countywide codified at Chapter 16.40 of the Monterey County Code. Currently, the majority of the Coastal Land Use Plans have agricultural protection policies such as the North County Land Use Plan (LUP 2.6.1), the Big Sur Land Use Plan (LUP 3.6.1), and the Carmel Land Use Plan (LUP 2.6.2). While the ordinance would apply in both the coastal and non-coastal zones and is consistent with the Local Coastal Program, Chapter 16.40 is not a part of the Local Coastal Program per Chapter 20.96 of Title 20 of the Monterey County Code. Accordingly, this ordinance does not need certification by the California Coastal Commission.
3. This Ordinance is intended to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize the potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance claims due to lack of information about such operations. As a result, such complaints may cause the curtailment of agricultural operations and discourage investment for the improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. Agricultural operations, in accord with all applicable laws and regulations, and consistent with properly accepted customs and practices, shall be given increased protection from nuisance claims. It is the intent of this Chapter to increase the protection of agricultural operations from nuisance claims, thus promoting the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands.
4. This Chapter also establishes a voluntary dispute resolution procedure that is less formal and less expensive than court proceedings, which is intended to resolve complaints about agricultural operations.
5. This Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060(c) (3) and 15378(b)(5) because the Ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.
6. A public hearing on the proposed Ordinance was duly noticed for March 12, 2014 in the Monterey County Weekly at least ten (10) days prior to the hearing, and notice was also given to interested parties. To enable staff to revise the draft ordinance and obtain the input of the County's Agricultural Advisory Committee (AAC), the Planning Commission duly continued the hearing on April 9, 2014 and May 14, 2014 to June 25, 2014. On June 25, 2014 the Planning Commission continued the item to August 27, 2014, to further revise the ordinance on issues found with the dispute resolution process. Staff made revisions in accordance with the Planning Commission direction and presented the revised draft ordinance to the AAC on July 24, 2014. The AAC recommended approval of the revised draft ordinance to the Planning Commission and the Board of Supervisors with a vote of 10-0 (2 absent members). This revised draft ordinance is attached as Attachment 1.

EXHIBIT A

Draft Planning Commission Resolution

With Attachment 1- Draft Ord. RTF (clean version)

**DECISION**

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission does hereby recommend that the Board of Supervisors take the following actions:

- 1) Find that the Ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060 (c)(3) and 15378 (b)(5) because the Ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the Ordinance (Attachment 1) amending Chapter 16.40 (“Protection of Agricultural Activities”) (“Right-to-Farm” Ordinance) of Title 16 of the Monterey County Code.

**PASSED AND ADOPTED** this 27th day of August, 2014 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Mike Novo, Secretary

## Attachment 1

ORDINANCE NO. \_\_\_\_\_

### **AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 16.40 OF THE MONTEREY COUNTY CODE RELATING TO PROTECTION OF AGRICULTURAL ACTIVITIES**

#### **County Counsel Summary**

*This Ordinance amends Chapter 16.40, commonly referred to as the "Right-to-Farm Ordinance," of the Monterey County Code in order to increase the protection of agricultural operations from nuisance claims, with the goal of promoting the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands in Monterey County. This Ordinance establishes two types of noticing requirements to increase awareness of property owners, potential purchasers of property near agricultural operations, and the general public of the County's "Right to Farm" Ordinance. This ordinance also updates the process for administrative resolution of disputes relating to agricultural operations by establishing a voluntary dispute resolution process to be administered by the Office of the Agricultural Commissioner. This ordinance applies to the unincorporated area of Monterey County.*

The Board of Supervisors of the County of Monterey ordains as follows:

#### SECTION 1. FINDINGS

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Through adoption of Policy AG-1.9 of the 2010 Monterey County General Plan which applies to the non-coastal area of the County and through prior enactment of Chapter 16.40 of the Monterey County Code which applies countywide, the Board of Supervisors has recognized the need to strengthen protection of properly conducted agricultural operations from nuisance claims. Additionally, the Coastal Act requires that the maximum amount of prime agriculture land shall be maintained in production to assure the protection of the area's economy. Currently, the majority of the Coastal Land Use Plans have agricultural protection policies such as the North County Land Use Plan (LUP 2.6.1), the Big Sur Land Use Plan (LUP 3.6.1), and the Carmel Land Use Plan (LUP 2.6.2). While the ordinance would apply in both the coastal and non-coastal zones and is consistent with the Local Coastal Program, Chapter 16.40 is not a part of the Local Coastal Program per Chapter 20.96 of Title 20 of the Monterey County Code. Accordingly, this ordinance does not need certification by the California Coastal Commission.

C. This ordinance protects the public health, safety and welfare and provides increased protections to properly conducted agricultural operations by establishing certain "Right to Farm" notifications and invigorating the County's process for resolution of disputes associated with inconveniences or discomforts occasioned by agricultural operations.

D. This ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060(c) (3) and 15378(b)(5) because the ordinance is

an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

SECTION 2. Section titles of Chapter 16.40 of the Monterey County Code are amended as follows:

Sections:

16.40.005 Purpose.

16.40.008 Applicability.

16.40.010 Definitions.

16.40.030 Properly operated farm not a nuisance.

16.40.040 Disclosure.

16.40.050 Voluntary Dispute Resolution Process.

SECTION 3. Section 16.40.005 is added to the Monterey County Code to read as follows:

**16.40.005 Purpose.**

A. The purpose of this Chapter is to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for the improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. The intent of this Chapter is to accord increased protection from nuisance claims to agricultural operations that are conducted in accord with all applicable laws and regulations and consistent with proper and accepted customs and practices. By increasing the protection of agricultural operations from nuisance claims, the provisions of this Chapter are intended to promote the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands of Monterey County.

B. An additional purpose of this Chapter is to promote a good neighbor policy by increasing the awareness of property owners located near agricultural operations, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential conditions that result from accepted agricultural practices in Monterey County and of the potential inconveniences or discomforts associated with living in and/or visiting a county with a strong rural character and healthy agricultural sector and with related "Right- to-Farm" protections, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, crop rotation, and impacts associated with the presence of a large labor force. Informing the populace about the importance of agriculture to



the economy and lifestyle of Monterey County and the nature of agricultural operations is critical to public support for continued agricultural operations.

C. This Chapter also establishes a voluntary dispute resolution process that is less formal and less expensive than court proceedings, with the goal of resolving complaints about agricultural operations without litigation.

SECTION 4. Section 16.40.008 of the Monterey County Code is added as follows:

**16.40.008 Applicability.**

The provisions of this Chapter apply countywide.

SECTION 5. Section 16.40.020 of the Monterey County Code is repealed.

SECTION 6. Subsection D of Section 16.40.030 of the Monterey County Code is amended to read as follows:

D. Persons who have a complaint that an agricultural operation interferes with private property or personal well-being are encouraged to pursue the voluntary dispute resolution process provided in Section 16.40.050 of this Chapter. This Subsection shall not prevent a public agency from enforcing the provisions of other applicable laws without first resorting to the dispute resolution process.

SECTION 7. Section 16.40.040 is added to the Monterey County Code to read as follows:

**16.40.040 Disclosure.**

A. Notice to Purchasers of Real Property.

Any authorized agent for a transferor of real property that is located in the County of Monterey, or the transferor if he or she is acting without an agent, shall provide a "right to farm" notice to the potential purchaser of said real property in substantially the following form:

**NOTICE TO PURCHASERS OF REAL PROPERTY:**

Notice is hereby provided that the Monterey County Board of Supervisors has adopted an ordinance (codified at Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code) to protect agricultural resources and agricultural operations from nuisance claims. It is the policy of the County of Monterey to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for

improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. Therefore, it is the intent of Chapter 16.40 of the Monterey County Code to promote a good neighbor policy by advising property owners, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential inconveniences or discomforts associated with living and/or visiting a County with a strong rural character and healthy agricultural sector, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, and crop rotation, and impacts associated with the presence of a large labor force.

Thus, as a resident or visitor of Monterey County, you are hereby notified that you must be prepared to accept certain inconveniences or discomforts that are caused by agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector. The Board of Supervisors has also established a voluntary dispute resolution process to assist in resolving complaints about agricultural operations without litigation.

For further information regarding County policies in respect to agriculture or the voluntary dispute resolution process, you are invited to contact the Monterey County Office of the Agricultural Commissioner.

**B. Notice to Building Permit Applicants.**

The County Building Services Department shall provide notice to all applicants applying for construction permits in the unincorporated area of Monterey County of the existence of Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code. This notice shall refer the applicant to Chapter 16.40 for detailed information on the protection of agricultural activities in the County.

SECTION 8. Section 16.40.050 of the Monterey County Code is amended to read as follows:

**16.40.050 Voluntary Dispute Resolution Process**

A. Voluntary Dispute Resolution Process. Should any dispute arise regarding any inconvenience or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation of the parties involved, the parties may choose to submit the dispute to the voluntary dispute resolution process as set forth in this Section in an attempt to resolve the matter prior to the filing of any court action.

B. The Monterey County Agricultural Commissioner or his or her designee in the Monterey County Office of the Agricultural Commissioner (hereafter "Agricultural Commissioner") shall serve as the County official to hear and mediate disputes relating to inconveniences or discomforts associated with adjacency to agricultural operations. The Agricultural Commissioner shall convene meetings among the parties to the dispute as needed,

shall provide notice of such meetings to all known parties to the dispute, and shall provide an opportunity for all known parties to the dispute to be heard. .

D. Cooperation. The effectiveness of the voluntary dispute resolution process is dependent upon full discussion and complete presentation by the parties of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the dispute.

E. Process. The dispute resolution process shall be initiated by written request of one of the parties. Thereafter the Agricultural Commissioner or his or her designee may investigate the facts of the dispute but must, within twenty-five (25) days or as soon thereafter as is feasible, hold a meeting among all known parties to the dispute to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, the parties shall have an opportunity to present what each considers pertinent facts. The time limits provided in this Subsection for action by the Agricultural Commissioner may be extended upon written agreement of all known parties to the dispute.

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 10. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Louis R. Calcagno, Chair  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:  
  
Wendy S. Strimling  
Senior Deputy County Counsel

By \_\_\_\_\_  
Deputy

## **EXHIBIT B**

ORDINANCE NO. \_\_\_\_\_

### **AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 16.40 OF THE MONTEREY COUNTY CODE RELATING TO PROTECTION OF AGRICULTURAL ~~AGRICULUTURAL~~ ACTIVITIES**

#### **County Counsel Summary**

*This Ordinance amends Chapter 16.40, commonly referred to as the "Right-to-Farm Ordinance," of the Monterey County Code in order to increase the protection of agricultural operations from nuisance claims, with the goal of promoting the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands in Monterey County. This Ordinance establishes two types of noticing requirements to increase awareness of property owners, potential purchasers of property near agricultural operations, and the general public of the County's "Right to Farm" Ordinance. This ordinance also updates the ~~County grievance committee composition and process for administrative resolution of disputes relating to agricultural operations~~ by establishing a voluntary dispute resolution process to be administered by the Office of the Agricultural Commissioner. This ordinance applies to the unincorporated area of Monterey County.*

The Board of Supervisors of the County of Monterey ordains as follows:

#### **SECTION 1. FINDINGS**

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Through adoption of Policy AG-1.9 of the 2010 Monterey County General Plan which applies to the non-coastal area of the County and through prior enactment of Chapter 16.40 of the Monterey County Code which applies countywide, the Board of Supervisors has recognized the need to strengthen protection of properly conducted agricultural operations from nuisance claims. Additionally, the Coastal Act requires that the maximum amount of prime agriculture land shall be maintained in production to assure the protection of the area's economy. Currently, the majority of the Coastal Land Use Plans have agricultural protection policies such as the North County Land Use Plan (LUP 2.6.1), the Big Sur Land Use Plan (LUP 3.6.1), and the Carmel Land Use Plan (LUP 2.6.2).

C. This ordinance protects the public health, safety and welfare and provides increased protections to properly conducted agricultural operations by establishing certain "Right to Farm" notifications and invigorating the County's ~~grievance~~ process for resolution of disputes associated with inconveniences or discomforts occasioned by agricultural operations.

D. This ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060(c) (3) and 15378(b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

SECTION 2. Section titles of Chapter 16.40 of the Monterey County Code are amended as follows:

Sections:

16.40.005 Purpose.

16.40.008 Applicability.

16.40.010 Definitions.

16.40.030 Properly operated farm not a nuisance.

16.40.040 Disclosure.

16.40.050 Voluntary Dispute Resolution Process of disputes via ~~Grievance Committee~~.

SECTION 3. Section 16.40.005 is added to the Monterey County Code to read as follows:

**16.40.005 Purpose.**

A. The purpose of this Chapter is to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for the improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. The intent of this Chapter is to accord increased protection from nuisance claims to agricultural operations that are conducted in accord with all applicable laws and regulations and consistent with proper and accepted customs and practices. By increasing the protection of agricultural operations from nuisance claims, the provisions of this Chapter are intended to promote the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands of Monterey County.

B. An additional purpose of this Chapter is to promote a good neighbor policy by increasing the awareness of property owners located near agricultural operations, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential conditions that result from accepted agricultural practices in Monterey County and of the potential inconveniences or discomforts associated with living in and/or visiting a county with a strong rural character and healthy agricultural sector and with related "Right- to-Farm" protections, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, crop rotation, and impacts associated with the presence of a large labor force. Informing the populace about the importance of agriculture to

the economy and lifestyle of Monterey County and the nature of agricultural operations is critical to public support for continued agricultural operations.

C. This Chapter also establishes a voluntary dispute resolution process procedure that is less formal and less expensive than court proceedings, with the goal of resolving complaints about agricultural operations without litigation.

SECTION 4. Section 16.40.008 of the Monterey County Code is added as follows:

**16.40.008 Applicability.**

The provisions of this Chapter apply countywide.

SECTION 5. Section 16.40.020 of the Monterey County Code is repealed.

SECTION 6. Subsection D of Section 16.40.030 of the Monterey County Code is amended to read as follows:

D. ~~Notwithstanding any provision of this Section, no action~~ Persons who alleging have a complaint that an agricultural operation interferes with private property or personal well-being are encouraged to pursue the voluntary dispute resolution process shall be maintained unless the plaintiff has sought and obtained a decision of the Grievance Committee, as provided in Section 16.40.050 of this Chapter or a decision has been sought but not rendered within the time limit provided in said Section. This Subsection shall not prevent a public agency from enforcing the provisions of other applicable laws without first resorting to the grievance dispute resolution process procedure.

SECTION 7. Section 16.40.040 is added to the Monterey County Code to read as follows:

**16.40.040 Disclosure.**

A. Notice to Purchasers of Real Property.

Any authorized agent for a transferor of real property that is located in the County of Monterey, or the transferor if he or she is acting without an agent, shall provide a “right to farm” notice to the potential purchaser of said real property in substantially the following form:

**NOTICE TO PURCHASERS OF REAL PROPERTY:**

Notice is hereby provided that the Monterey County Board of Supervisors has adopted an ordinance (codified at Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code) to protect agricultural resources and agricultural operations from nuisance claims. It is the policy of the County of Monterey to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially

residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. Therefore, it is the intent of Chapter 16.40 of the Monterey County Code to promote a good neighbor policy by advising property owners, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential inconveniences or discomforts associated with living and/or visiting a County with a strong rural character and healthy agricultural sector, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, and crop rotation, and impacts associated with the presence of a large labor force.

Thus, as a resident or visitor of Monterey County, you are hereby notified that you must be prepared to accept certain inconveniences or discomforts that are caused by agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector. The Board of Supervisors has also established a voluntary dispute resolution-grievance procedure to assist in intended to resolve complaints about agricultural operations without litigation.

For further information regarding ~~your obligations and rights under these policies~~ County policies in respect to agriculture or the voluntary dispute resolution process, you are invited to contact the Monterey County Office of the Agricultural Commissioner.

B. Notice to Building Permit Applicants.

The County Building Services Department shall provide notice to all applicants applying for construction permits in the unincorporated area of Monterey County of the existence of Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code. This notice shall refer the applicant to Chapter 16.40 for detailed information on the protection of agricultural activities in the County.

SECTION 8. Section 16.40.050 of the Monterey County Code is amended to read as follows:

**16.40.050 Voluntary Dispute Resolution Process of disputes via Grievance Committee.**

A. ~~Grievance~~ Voluntary Dispute Resolution Process. Should any dispute arise regarding any inconvenience or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation of the parties involved, the parties may choose to ~~shall~~ submit the dispute to a ~~Grievance Committee~~ the voluntary dispute resolution process as set forth in this Section in an attempt to resolve the matter prior to the filing of any court action.

~~B. — Filing Period. Any dispute between the parties shall be submitted to a Grievance Committee within thirty (30) days of the later of the date of the occurrence of the particular activity giving rise to the dispute or the date a party became aware of the occurrence.~~

~~CB. Membership of Grievance Committee. The Monterey County Agricultural Commissioner or his or her designee in the Monterey County Office of the Agricultural Commissioner (hereafter "Agricultural Commissioner") shall serve as the County official to hear and mediate disputes relating to inconveniences or discomforts associated with adjacency to agricultural operations. will convene the Grievance Committee and will choose the composition of the members so as to represent the community of interest. The Grievance Committee shall meet on an ad-hoc basis and be composed of, without limitation and as determined by the Agricultural Commissioner, the following members: the County's Agricultural Commissioner or his or her designee; the Executive Director of the Farm Bureau; the Chairperson of the County's Agricultural Advisory Committee; the Director of Planning or his or her designee; a representative of the local Chamber of Commerce; and the Monterey County Environmental Health Director or his or her designee; and a Director from the University of California Cooperative Extension Service Monterey County. A majority of the members shall constitute a quorum of the Grievance Committee. No decision shall be valid or binding unless taken upon a majority vote of the Grievance Committee. The Monterey County Agricultural Commissioner shall be the Secretary who shall call and convene meetings. meetings among the parties to the dispute as needed, shall provide notice of such meetings to all known parties to the dispute, and shall provide an opportunity for all known parties to the dispute to be heard, as the need arises and shall maintain minutes of each meeting. The Grievance Committee shall adopt rules of procedure governing the conduct of its meetings. Members of the Grievance Committee shall receive no compensation for carrying out these duties.~~

~~D. Cooperation. The effectiveness of the Grievance Committee voluntary dispute resolution process as a forum for resolution of disputes is dependent upon full discussion and complete presentation by the parties of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the dispute.~~

~~E. Process. The dispute resolution process shall be presented to the Grievance Committee initiated by written request of one of the parties, within the time limits specified. Thereafter the Grievance Committee Agricultural Commissioner or his or her designee may investigate the facts of the dispute but must, within twenty-five (25) days, or as soon thereafter as is feasible, hold a meeting among all known parties to the dispute to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both the parties shall have an opportunity to present what each considers pertinent facts. The time limits provided in this Subsection for action by the Grievance Committee Agricultural Commissioner may be extended upon written stipulation agreement of all known parties in to the dispute.~~

~~F. — Costs. All costs associated with the functioning of the Grievance Committee process shall be borne by the party initiating the process. The Board of Supervisors may, by resolution, prescribe the fees to recover those costs.~~

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity



of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 10. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Louis R. Calcagno, Chair  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Wendy S. Strimling  
Senior Deputy County Counsel

By \_\_\_\_\_  
Deputy

## EXHIBIT C

### Chapter 16.40 PROTECTION OF AGRICULTURAL ACTIVITIES

Sections:

16.40.005 Purpose.

16.40.008 Applicability.

16.40.010 Definitions.

~~16.40.020 Findings.~~

16.40.030 Properly operated farm not a nuisance.

16.40.040 Disclosure.

16.40.050 Voluntary Dispute Resolution Process of disputes.

#### 16.40.005 Purpose.

A. The purpose of this Chapter is to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for the improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. The intent of this Chapter is to accord increased protection from nuisance claims to agricultural operations that are conducted in accord with all applicable laws and regulations and consistent with proper and accepted customs and practices. By increasing the protection of agricultural operations from nuisance claims, the provisions of this Chapter are intended to promote the long-term protection, conservation and enhancement of productive and potentially productive agricultural lands of Monterey County.

B. An additional purpose of this Chapter is to promote a good neighbor policy by increasing the awareness of property owners located near agricultural operations, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential conditions that result from accepted agricultural practices in Monterey County and of the potential inconveniences or discomforts associated with living in and/or visiting a county with a strong rural character and healthy agricultural sector and with related "Right- to-Farm" protections, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, crop rotation, and impacts associated with the presence of a large labor force. Informing the populace about the importance of agriculture to the economy and lifestyle of Monterey County and the nature of agricultural operations is critical to public support for continued agricultural operations.

EXHIBIT C

(Draft Ordinance with Ch. 16.40 in its entirety with proposed amendments  
Shown in underline and strikethrough)

C. This Chapter also establishes a voluntary dispute resolution process that is less formal and less expensive than court proceedings, with the goal of resolving complaints about agricultural operations without litigation.

**16.40.008 Applicability.**

The provisions of this Chapter apply countywide.

**16.40.010 Definitions.**

Unless the context otherwise requires, the following definitions in this Section shall govern the interpretation of this Chapter.

- A. "Agricultural land" means all real property within the unincorporated boundaries of Monterey County currently used for agricultural operations or upon which agricultural operations may in the future be established.
- B. "Agricultural operation" shall mean and include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including horticulture, timber, or apiculture, the raising of livestock, fish, or poultry, and any acceptable cultural practices performed as incident to, or in conjunction with such farming operations, including preparation for market, delivery to storage or market, or delivery to carriers for transportation to market.
- C. "Farm operation" means those activities normally conducted in the pursuit of agricultural operations which includes the farming of trees for commercial purposes.
- D. "Nuisance" shall have the meaning ascribed to that term in California Civil Code Section 3479, as may be amended from time to time.
- E. "Proper and accepted customs and standards" means the compliance with all applicable State and Federal statutes and regulations governing the agricultural operation or farm operation with respect to the condition or effect alleged to be a nuisance.
- F. "Transfer of property" means any real property sale, exchange, installment land sale contract (as defined in California Civil Code Section 2985, as may be amended from time to time), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or residential stock cooperation, improved with or consisting of not less than one dwelling unit.

**16.40.020 Findings.**

- ~~A. It is the declared policy of the County of Monterey to conserve, enhance, and encourage agricultural operations within the County, and to minimize potential conflict between agricultural and non-agricultural land uses within the County. To~~

EXHIBIT C

(Draft Ordinance with Ch. 16.40 in its entirety with proposed amendments  
Shown in underline and strikethrough)

~~implement this policy, the County seeks to provide to the residents of this County proper notification of these policies.~~

- ~~B. Where non agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be the subject of nuisance complaints. Such complaints may cause the curtailment of agricultural operations and discourage investments for the improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. It is the purpose and intent of this Chapter to prevent the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance.~~
- ~~C. This policy can best be implemented by educating residents about the laws protecting agricultural operations and farm operations from conflicts with non agricultural uses, and by notifying residential users of property adjacent to or near agricultural operations and farm operations of circumstances relative to agricultural activities which may be objectionable to owners and/or users of non agricultural properties. These potentially objectionable circumstances may include, but are not limited to, the noises, odors, dust, chemicals, smoke and extended hours of operation that may accompany agricultural operations.~~
- ~~D. Implementation of the foregoing policies can be strengthened by establishing a dispute resolution procedure that is less formal and expensive than court proceedings and can bring about a resolution of many complaints about agricultural operations.~~

#### **16.40.030 Properly operated farm not a nuisance.**

- A. No agricultural operation, farm operation, or agricultural activity, facility, or appurtenance thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.
- B. Subsection A shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof, obstructs the free passage or use, in the in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.
- C. This Section shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food or Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in any such provision.
- ~~D. Notwithstanding any provision of this Section, no action, Persons who alleging have a complaint that an agricultural operation interferes with private property or personal well-being are encouraged to pursue the voluntary dispute resolution process, shall be maintained unless the plaintiff has sought and obtained a decision of the Agricultural~~

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Shown in underline and strikethrough)

~~Grievance Committee, provided in Section 16.40.0750 of this Chapter or a decision has been sought but not rendered within the time limit provided in this Section. This Subsection shall not prevent a public agency from enforcing the provisions of other applicable laws without first resorting to the grievance procedure dispute resolution process.~~

#### **16.40.040 Disclosure.**

~~Repealed.~~

A. Notice to Purchasers of Real Property.

Any authorized agent for a transferor of real property that is located in the County of Monterey, or the transferor if he or she is acting without an agent, shall provide a "right to farm" notice to the potential purchaser of said real property in substantially the following form:

NOTICE TO PURCHASERS OF REAL PROPERTY:

Notice is hereby provided that the Monterey County Board of Supervisors has adopted an ordinance (codified at Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code) to protect agricultural resources and agricultural operations from nuisance claims. It is the policy of the County of Monterey to promote the long-term protection, conservation, and enhancement of productive and potentially productive agricultural land and to minimize potential conflict between agricultural and non-agricultural land uses within the County. Where non-agricultural land uses, especially residential development, extend into agricultural lands or are located in the vicinity of agricultural lands, agricultural operations may be subject to nuisance complaints which may be the result of lack of information about such operations. Such complaints may cause the curtailment of agricultural operations and discourage investment for improvement of agricultural land to the detriment of the economic viability of the agricultural industry of the County. Therefore, it is the intent of Chapter 16.40 of the Monterey County Code to promote a good neighbor policy by advising property owners, potential purchasers of real property located near agricultural operations, residents of the County, and the general public of the potential inconveniences or discomforts associated with living and/or visiting a County with a strong rural character and healthy agricultural sector, so long as the agricultural operations are conducted in a manner consistent with proper and accepted customs and standards. These potential inconveniences or discomforts may include, but are not limited to, noises, odors, lights, reflective surfaces, fumes, insects, dust, chemicals, smoke, the operation of machinery (including aircraft), agricultural truck traffic, and crop rotation, and impacts associated with the presence of a large labor force.

Thus, as a resident or visitor of Monterey County, you are hereby notified that you must be prepared to accept certain inconveniences or discomforts that are caused by

EXHIBIT C

(Draft Ordinance with Ch. 16.40 in its entirety with proposed amendments  
Shown in underline and strikethrough)

agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector. The Board of Supervisors has also established a voluntary dispute resolution process to assist in resolving complaints about agricultural operations without litigation.

For further information regarding County policies in respect to agricultural or the voluntary dispute resolution process, you are invited to contact the Monterey County Office of the Agricultural Commissioner.

B. Notice to Building Permit Applicants.

The County Building Services Department shall provide notice to all applicants applying for construction permits in the unincorporated area of Monterey County of the existence of Chapter 16.40 (Protection of Agricultural Activities) of the Monterey County Code. This notice shall refer the applicant to Chapter 16.40 for detailed information on the protection of agricultural activities in the County.

**16.40.050 Voluntary Dispute Resolution Process of Disputes.**

A. Grievance Voluntary Dispute Resolution Process. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation of the parties involved, the parties may choose to shall submit the controversy dispute to a the voluntary dispute resolution process grievance committee as set forth in this Section in an attempt to resolve the matter prior to the filing of any court action.

B. Filing Period. ~~Any controversy between the parties shall be submitted to a grievance committee within thirty (30) days of the later date of the occurrence of the particular activity giving rise to the controversy or the date a party became aware of the occurrence.~~

C. Membership of Committee. ~~The grievance committee shall consist of five members selected from the community at large by the Board of Supervisors, at least two of the members shall have no financial interest in any agricultural property or operation and at least one of the members shall have knowledge and expertise in agricultural production practices. A majority of the members shall constitute a quorum of the grievance committee, and no decision shall be valid or binding unless taken upon a majority vote of the committee. The Monterey County Agricultural Commissioner shall be the Secretary who shall call meetings as the need arises and shall maintain minutes of each meeting. The committee shall adopt rules of procedure governing the conduct of its meetings. Members of the committee shall adopt rules of procedure governing the conduct of its meetings. Members of the committee shall receive no compensation for carrying out these duties.~~

B. The Monterey County Agricultural Commissioner or his or her designee in the Monterey County Office of the Agricultural Commissioner (hereafter "Agricultural Commissioner") shall serve as the County official to hear and mediate disputes relating to inconveniences or discomforts associated with adjacency to agricultural operations. The

Agricultural Commissioner shall convene meetings among the parties to the dispute as needed, shall provide notice of such meetings to all known parties to the dispute, and shall provide an opportunity for all known parties to the dispute to be heard.

~~DC. Cooperation. The effectiveness of the grievance committee voluntary dispute resolution process as a forum for resolution of disputes is dependent upon full discussion and complete presentation by the parties of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy dispute.~~

~~ED. Process. The controversy dispute resolution process shall be presented to the committee initiated by written request of one of the parties within the time limits specified. Thereafter the committee Agricultural Commissioner or his or her designee may investigate the facts of the controversy dispute but must, within twenty-five (25) days, or as soon thereafter as is feasible, hold a meeting among all known parties to the dispute to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both the parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel. The time limits provided in this Subsection for action by the committee Agricultural Commissioner may be extended upon the written stipulation agreement of all known parties in a the dispute.~~

~~F. Costs. All costs associated with the functioning of the grievance committee process shall be borne by the party initiating the process. The Board of Supervisors may, by resolution, prescribe the fees to recover those costs.~~

**Exhibit D**

**MONTEREY COUNTY  
AGRICULTURAL ADVISORY COMMITTEE (AAC)**

1428 Abbott Street, Salinas, CA 93901

**May 22, 2014  
2:30 p.m. to 4:30 p.m.**

**MINUTES**

<b>Members</b>	<b>Present</b>	<b>Guests &amp; Staff</b>	<b>Affiliation</b>
David Costa	✓	Bob Schubert	RMA-Planning Department
Steve de Lorimier	✓	Nadia Amador	RMA-Planning Department
Alexandra Eastman	✓	Mary Grace Perry	Office of the County Counsel
Kurt Gollnick	✓	Eric Lauritzen	Agricultural Commissioner
Bill Hammond	-	Christina McGinnis	Agricultural Commissioner's Office
Bill Lipe	-	Kathy Nielsen	Agricultural Commissioner's Office
Mike Manfre	-		
Steve McIntyre	-		
Manuel Morales	✓		
Steve Ray	✓		
Scott Violini	✓		
Ridge Watson	✓		

**I. Call to Order**

The meeting was called to order at 2:35 p.m.

**II. Approvals**

The meeting minutes of March 27, 2014, were approved unanimously.

**III. Public Comments (items not on the agenda)**

None

**IV. Agricultural Commissioner's Update**

- The 2013 Crop Report is scheduled to be released on June 17, 2014, with stewardship as the theme of the report. There will be a press briefing at 9:30/10:00 a.m. in the Ag Center Conference Room followed by presentation to the Board of Supervisors at 11:30 a.m.
- The kick-off reception of the Farm Worker Advisory Committee will be on May 27, 2014. Staff from our office, Center for Community Advocacy, and farm workers' representatives will be in attendance. This will be followed by a press release.
- Officials from Mexico were to be here sometime this week to tour the strawberry operations; however, their trip was postponed at the last minute. Their visit is over concerns about trapping requirements. I will keep you posted.
- Approximately three to four weeks ago the California Department of Public Health released a report entitled "Ag Pesticide Use Near Public Schools in California." There was quite a bit of media coverage, and it was much anticipated by groups such as PANNA (Pesticide Action

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Exhibit D



Network North America), CRLA, etc. Californians for Pesticide Reform had a four-page story on the report posted on their website before it was released, which was done all of a sudden just before the senate hearings. Before the hearings an amendment to the bill was offered in the form of a task force to look at issues' complexities; however, this was rejected. I testified on behalf of CACASA in opposition to the bill. It failed with a 4:1 vote. This did not stop organizations that had received the report in advance from scheduling and holding press conferences. Needless to say, I have been busy speaking with our County Health Officer, Superintendent of Schools Nancy Kotowski, and others. The report will be reviewed by our Health Officer and comments will be received.

- The Center for Investigative Reporting is working on a report on the use of fumigants in California. They have been making numerous public records requests from various counties. There is a meeting this week in Ventura with the Strawberry Commission, Ventura Ag Commissioner's Office, CRLA and others. There is no scheduled release date for the report.
- The growth chamber for the study of powdery/downy mildew is expected to come to fruition soon. It has been challenging working with the vendor and the county as well.

Response to question of the existence of a study on the products used on school grounds:

There has been no study done of the products used on school grounds; no one has asked for it. Our department sent a letter to Diane Dooley asking her to reach out to public health officials and schools so hopefully something good can come for the previously-mentioned report. The only thing this type of report does is to alarm people.

**V. Resource Management Agency**

**A. Guzik's Good Humus Composting Facility Initial Study and Related Documents**

*Bob Schubert, Senior Planner*

The project entails the development and operation of a composting facility on an approximately 54-acre parcel. Guzik's has been composting in the County since 1994 and moved to this site in 1999 at which time no Use Permit was obtained. Approval of a retroactive Use Permit is being sought for this agricultural service facility in order to comply with land use regulations.

The owner of the facility voluntarily contacted the County; there is no code violation. There are two ancillary uses to the composting facility that were not mentioned previously:

1. Ag material recycling – D'Arrigo Brothers supplies a small portion;
2. Wood Cutting – Periodically, T&A has the walnut trees on Spreckels Blvd. evaluated and, when necessary, cut. The cut wood is taken to Guzik's where it dries for one year or more. Actual cutting time is approximately two days per month. The wood is then returned to T&A and sold.

The zoning ordinance is set up to require a permit for this conditionally allowed use (composting). This property was a feedlot through 1999 prior to becoming a composting facility. As such, two containment ponds were already in place. The animal pens were removed; the ground laser leveled and then compacted to avoid seepage. Now there is only cow manure and green waste, and no chemicals are used to compost the materials.

The following is an updated requested action provided at the meeting of May 22, 2014.

**REQUESTED ACTION:** Recommend that the Zoning Administrator approve a Use Permit to allow an existing compost facility (agricultural support facility) with recycling of agricultural material (plastic, cardboard, etc.) and wood cutting as ancillary uses.

**MOTION:** A motion was made by Scott Violini and seconded by Kurt Gollnick to recommend that the Zoning Administrator approve a Use Permit to allow an existing compost facility (agricultural support facility) with recycling of agricultural materials (plastic, cardboard, etc.) and wood cutting as ancillary uses.

AYES: 7

NOES: 0

ABSENT: 4 (Hammond, Lipe, Manfre, McIntyre)

RECUSED: 1 (de Lorimier)

**B. Right-to-Farm (RTF) Ordinance (Draft)**

*Nadia Amador, Associate Planner*

On March 27, 2014, the AAC made a recommendation to both the Planning Commission and the Board of Supervisors on a former draft of the RTF Ordinance. Upon discussion with the Monterey County Treasurer-Tax Collector regarding a previously proposed method involving disclosure through property tax bills, Staff deleted this option from the draft Ordinance due to cost (approximately \$50,000 to add a one-page disclosure). Staff has thus revised the draft RTF Ordinance and seeks the AAC's recommendation on the attached revised draft ordinance.

Revisions to the draft Ordinance are under the Disclosure section. Information will be provided on the building permit application and with real estate transactions. The Tax Collector has agreed to have a link on the property tax bill; however, the Tax Collector did not want this codified. It was suggested by the AAC that the actual code section in the bill should be referenced. The Ag Commissioner's Office will voluntarily run an ad in one of the circular papers one to two times a year. However, this too will not be codified due to the need to respond to budget fluctuations on an annual basis. Additionally, informational pamphlets (also not codified in the Ordinance) will be provided to the Sheriff's Office and the Salinas Police Department in case they receive phone calls.

RMA will work on creating the website, then the verbiage. Help from the IT Department will be sought as to the best way to get this information out to the public.

**REQUESTED ACTION:** Recommend approval to the Board of Supervisors of the revised draft "Right-to-Farm" Ordinance.

**MOTION:** As motion was made by Ridge Watson and seconded by Alex Eastman to support staff's recommendation to recommend approval of the revised RTF Ordinance in substantially the same form in Attachment One of staff's memo and support the uncoded forms of notice as recommended by staff, including a reference to the RTF Ordinance on property tax bills.

AYES: 8

NOES: 0

ABSENT: 4 (Hammond, Lipe, Manfre, McIntyre)

Exhibit D  
Page 3 of 13 Pages

**VI. Administrative Matters**

Committee Appointments – There are several members whose term expirations have either expired or will expire on June 30, 2014. The Ag Commissioner's Office will work with those members affected.

**VII. Adjournment**

There being no further business before the Committee, the meeting was adjourned at 3:25 p.m.

Respectfully submitted,

*Monterey County Agricultural Commissioner's Office*

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**MONTEREY COUNTY  
AGRICULTURAL ADVISORY COMMITTEE (AAC)**

Grower-Shipper Association Office  
512 Pajaro Street, Salinas, CA 93901

**March 27, 2014  
2:30 p.m. to 4:30 p.m.**

**MINUTES**

<b>Members</b>	<b>Present</b>	<b>Guests &amp; Staff</b>	<b>Affiliation</b>
David Costa	-	Joe Sidor	RMA-Planning Department
Steve de Lorimier	-	Nadia Amador	RMA-Planning Department
Alexandra Eastman	-	Mary Grace Perry	Office of the County Counsel
Kurt Gollnick	-	Eric Lauritzen	Agricultural Commissioner
Bill Hammond	✓	Bob Roach	Agricultural Commissioner's Office
Bill Lipe	✓	Christina McGinnis	Agricultural Commissioner's Office
Mike Manfre	-	Kathy Nielsen	Agricultural Commissioner's Office
Steve McIntyre	✓		
Manuel Morales	✓		
Steve Ray	✓		
Scott Violini	✓		
Ridge Watson	✓		

**I. Call to Order**

The meeting was called to order at 2:58 p.m.

**II. Approvals**

The meeting minutes of February 27, 2014, were approved unanimously.

**III. Public Comments (items not on the agenda)**

None

**IV. Agricultural Commissioner's Update**

- AgKnowledge is starting on Friday, March 28. There are 23 fellows with varying backgrounds. The new year will start with a kick-off reception at the Grower-Shipper Association office.
- A new bill, SB1411, has been introduced regarding regulation of pesticides around schools and would give additional authority for agricultural commissioners to limit restricted pesticide use near school. . It is set to go before the Senate Ag Committee next week. It would also greatly expand posting requirements. CACASA is pushing for formation of a stakeholder group to discuss.

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- I am working with Juan Uranga and the Center for Community Advocacy to launch a farmworker advisory committee. We have met with the majority of supervisors and have a target launch date of April. The purpose is to bring farmworker leaders together to talk and work more directly with each other. First meeting to meet and greet, then work on developing an agenda.
- The 2013 Crop report is scheduled for release on June 17. The theme this year is stewardship.

**V. Resource Management Agency**

**A. Pedrazzi Parcel Subdivision**

*Joe Sidor, Associate Planner*

Tentative Parcel Map (per MCC 19.03.005.4) to allow the subdivision of a 940.273 acre parcel into six parcels consisting of 142.36 acres (Parcel 1), 395.15 acres (Parcel 2), 171.44 acres (Parcel 3), 134.52 acres (Parcel 4), 52.933 acres (Parcel 5), and 43.869 acres (Parcel 6). The property is located along River Road [NO ADDRESS ASSIGNED BY PUBLIC WORKS] Toro Area Plan.

The project currently has area in an existing Williamson Act (WA) contract on the west side of River Road, in grazing. The existing WA contract covers 537.51 acres and would continue to do so under two amended contracts. There would be no change in the amount of WA acreage, just reconfiguration. The project does not propose any structural development, as the properties are proposed solely for an agricultural subdivision. Nonetheless, the Planning Department is preparing an Initial Study. Planning is not requiring an Agricultural Viability Study.

LandWatch Letter: Planning staff will consider this letter in review of the minor subdivision application; however, the issues raised by this letter do not apply to the Ag Advisory Committee's review of the proposed subdivision.

**ACTION**: Receive Ag Advisory Committee comments regarding compliance with applicable Williamson Act contract policies and the agricultural viability of the proposed subdivided parcels.

**MOTION**: A motion was made by Bill Hammond and seconded by Bill Lipe to recommend the Ag Advisory Committee support the subdivision of the Pedrazzi property as presented on the map on both sides of River Road as one side meets the Williamson Act and the other side meets the 40-acre minimum and ag viability.

AYES: 7  
NOES: 0  
ABSENT: 4 (Costa, de Lorimier, Eastman, Gollnick, Manfre)

**B. Right-to-Farm Ordinance (Draft)**

*Nadia Amador, Associate Planner*

This item was continued from the February 27, 2014, AAC meeting to March 27, 2014, in order to incorporate additional changes to the draft Ordinance including but not limited to: a third form of disclosure method (disclosure through Building Permit applications); and revisions clarifying types of agricultural activities.

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The RTF would amend Chapter 16.40 of Monterey County Code entitled Protection of Agricultural Activities commonly referred to as the "Right to Farm" Chapter. A descriptive purpose of the chapter is being added. A dispute resolution procedure is also being established that is less formal and less costly than court proceedings. The dispute procedure has always been in the chapter, but it is being updated to be more current and fair. Applicability will be added thus making the ordinance applicable on a countywide basis. An error under Section 5, which has an incorrect reference, will be fixed.

Establishing disclosure through the following:

1. Notice in property tax bills for every property owner in county. Added sentence for property owner to advise tenants;
2. Through real estate transactions to notify buyers;
3. County building department – adding information at the building permit stage on the application.

An informational pamphlet will be developed for local law enforcement agencies to use when there is a complaint from the public. In addition, a website will be developed, but not required as a formal part of the ordinance.

**Requested Action:** Recommend approval of the draft "Right to Farm" Ordinance, in substantially the same form as presented, by the Monterey County Planning Commission and the Board of Supervisors.

**MOTION:** A motion was made by Bill Lipe and seconded by Steve McIntyre to recommend that the Monterey County Planning Commission and Board of Supervisors approve the draft Right to Farm Ordinance in substantially the same form as presented to the Ag Advisory Committee.

AYES: 7  
NOES: 0  
ABSENT: 4 (Costa, de Lorimier, Eastman, Gollnick, Manfre)

#### **VI. Administrative Matters**

Nothing to report.

#### **VII. Adjournment**

There being no further business before the Committee, the meeting was adjourned at 3:35 p.m.

Respectfully submitted,

*Monterey County Agricultural Commissioner's Office*

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**MONTEREY COUNTY  
AGRICULTURAL ADVISORY COMMITTEE (AAC)**

Agricultural Center Conference Room  
1428 Abbott Street, Salinas

**February 27, 2014  
2:30 p.m. to 4:30 p.m.**

**MINUTES**

<b>Members</b>	<b>Present</b>	<b>Guests &amp; Staff</b>	<b>Affiliation</b>
David Costa	✓	Joe Sidor	RMA-Planning Department
Steve de Lorimier	✓	Nadia Amador	RMA-Planning Department
Alexandra Eastman	✓	Eric Lauritzen	Agricultural Commissioner
Kurt Gollnick	✓	Bob Roach	Agricultural Commissioner's Office
Bill Hammond	✓	Christina McGinnis	Agricultural Commissioner's Office
Bill Lipe	-	Kathy Nielsen	Agricultural Commissioner's Office
Mike Manfre	-	Mary Grace Perry	Office of the County Counsel
Steve McIntyre	-		
Manuel Morales	✓		
Steve Ray	✓		
Scott Violini	✓		
Ridge Watson	✓		

**I. Call to Order**

The meeting was called to order at 2:34 p.m.

**II. Approvals**

The meeting minutes of December 5, 2013, were approved unanimously.

**III. Public Comments (items not on the agenda)**

Members of the public spoke to the Committee regarding fracking concerns.

**IV. Agricultural Commissioner's Update**

- The USEPA is proposing revision to federal work protection standards. Currently it is in the pre-proposal stage, and there will be future opportunities for comment. We will continue to follow the issue.
- The Agricultural Commissioner is working with the Center for Community Advocacy to establish a farmworker advisory committee to advise the Commissioner on matters of worker health and safety, primarily related to the use of pesticides in agriculture.
- The Center for Investigative Reporting submitted a public records request related to the use of fumigants. Other counties and the Department of Pesticide Regulation have also been contacted.
- Stewardship project (Christina McGinnis). Growers and ranchers in the county are being interviewed in an effort to document good innovative practices (waste and energy reduction; efficient irrigation, etc.) that have been implemented. To date, approximately 20 interviews

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have been conducted. This information may be used to develop a suite of practices and/or a speaker series to share beneficial information, and also will be used to generate ideas on sustainability to highlight in the 2013 crop report.

**V. Resource Management Agency**

**A. Pedrazzi Parcel Subdivision**

*Joe Sidor, Associate Planner*

Tentative Parcel Map (per MCC 19.03.005.4) to allow the subdivision of a 940.273 acre parcel into six parcels consisting of 142.36 acres (Parcel 1), 395.15 acres (Parcel 2), 171.44 acres (Parcel 3), 134.52 acres (Parcel 4), 52.933 acres (Parcel 5), and 43.869 acres (Parcel 6). The property is located along River Road [NO ADDRESS ASSIGNED BY PUBLIC WORKS] Toro Area Plan.

**ACTION:** Staff was asked to bring this item back to the AAC in March with additional mapping and clarification showing which parcels are and are not part of the Williamson Act and the proposed subdivision.

**B. SMD Vineyards**

*Joe Sidor, Associate Planner*

Minor Subdivision to allow the division of an existing 516 acre parcel into three (3) parcels (Parcel 1, 106 acres; Parcel 2, 210 acres; and Parcel 3, 200 acres), and a Williamson Act Contract Amendment. The property is located at 24301 Old Stage Rd, Salinas (Assessor's Parcel Number 145-181-003-000), Central Salinas Valley Area Plan.

This parcel, currently under the Williamson Act, will be divided into three parcels and remain under the Williamson Act. The subdivision is for estate planning purposes.

**Requested Action:** Receive AAC comments regarding compliance with applicable Williamson Act contract policies and the agricultural viability of the proposed subdivided parcels.

**MOTION:** A motion was made by Bill Hammond and seconded by Scott Violini to recommend support of the application.

AYES: 7

NOES: 0

ABSENT: 4 (Lipe, Manfre, McIntyre, Ray)

RECUSED: 1 (Gollnick)

**C. Right-to-Farm Ordinance (Draft)**

*Nadia Amador, Associate Planner*

The "Right-to-Farm" ordinance intends to comply with 2010 Monterey County General Plan Policy No. AG-1.9, related to strengthening the County's existing "Right-to-Farm" county code chapter (Chapter 16.40 of the Monterey County Code (MCC)).

**Requested Action:** Recommend approval to the Board of Supervisors of the draft "Right-to-Farm" ordinance with the addition of a building permit application disclosure.

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Working with the Ag Advisory Committee Ad Hoc Subcommittee, several methods for disclosure were offered. Five options were presented to the Planning Commission at a workshop with the RMA staff recommendation for using two. However, more options were requested by the Planning Commission, including adding another form of disclosure through the building application process.

Information could be disseminated through informational pamphlets. The Sheriff's Department and Police Departments also need to be informed of the Right-to-Farm due to the number of complaints they receive.

Comments/Concerns:

- There was concern with the grievance procedure language, in particular, "...but not limited to...."
- The grievance committee is typically not utilized and therefore not practical to maintain. It would be an ad hoc committee with members referred to as "ex officio" due to changing AAC membership. The ad hoc committee would consist of members appropriate to the situation being presented;
- The Ag Commissioner has the ability to choose the committee;
- When asking about the notification to the building trades, the Committee was informed that the Planning Commission meets with the Streamlining Task Force which consists of different types of construction trades; in addition, the realtors association has been contacted;
- Language should be included to reference that agriculture is always evolving and changing which would also impact views from residences (e.g., crop rotation);
- Also included should be reference to lights or other reflective surfaces in addition to crop rotation, odors, and truck traffic;
- On page five, section E, change the word "controversy" to "dispute" in order to be consistent.

Due to a document error, there was no official action taken on this item.

**VI. Administrative Matters**

- All terms expire on June 30 three years from the appointment of a member or until a replacement is determined;
- The Strawberry Commission representation on the committee has been vacated due to non-attendance. The Agricultural Commissioner's Office has been told the Commission has a candidate in mind although no further information has been received;
- There has been no information received from District 3 (Supervisor Salinas) with regard to a replacement for Bill Hammond;
- Scott Violini is being renominated by the Cattlemen's Association.

**VII. Adjournment**

There being no further business before the Committee, the meeting was adjourned at 3:40 p.m.

Respectfully submitted,

*Monterey County Agricultural Commissioner's Office*

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**MONTEREY COUNTY  
AGRICULTURAL ADVISORY COMMITTEE**

**Special Ad Hoc Subcommittee**

**2010 Monterey County General Plan Implementation  
Agriculturally Focused and Agriculturally Related Ordinances and Programs**

Agricultural Commissioner's Office  
Interior Conference Room  
1428 Abbott Street, Salinas, CA 93901  
Phone: (831) 759-7325 ~ Fax: (831) 759-2268

**MINUTES**

**Monday, November 4, 2013.**

**3:00 p.m. – 5:00 p.m.**

<b>Members</b>	<b>Present</b>	<b>Guests &amp; Staff</b>	<b>Affiliation</b>
Kurt Gollnick	✓	Mary Grace Perry	Office of the County Counsel
Bill Hammond	✓	Nadia Amador	Resource Management Agency
Bill Lipe	✓	Marti Noel	Resource Management Agency
Scott Violini	-	Christina McGinnis	Ag Commissioner's Office
		Kathy Nielsen	Ag Commissioner's Office
		Norm Groot	Monterey County Farm Bureau
		Bob Perkins	

The meeting was called to order at: 4:00 p.m.

**I. Welcome and Introductions**

**II. Public Comment (items not on the agenda)**

No public comment.

**III. Approve**

By consensus, the AAC Subcommittee approved the minutes of the May 13, 2013, without changes.

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#### IV. Right to Farm Ordinance

*Nadia Amador, Associate Planner, Long Range Planning Team*

Discussion on Disclosure Options for Right-to-Farm Ordinance - Planning File No. REF130040

Ms. Amador briefed the AAC Subcommittee regarding the preparation of a Right-to-Farm Ordinance, specifically on the topic of disclosure methods and notice requirements in furtherance of the 2010 Monterey County General Plan, Agriculture Element, Policy AG 1.9, and solicited their input on options for disclosure.

- The Right to Farm has been state law since the 1970's. In 2009, the state required disclosure of the Right to Farm and airports in documents to the Department of Real Estate. In 1993, the disclosure requirement of the existing Ordinance Chapter was repealed in Monterey County. The General Plan now requires providing the strongest notice to property owners via Policy 1.9, and RMA staff are working to implement the policy via a revised RTF Ordinance that would reinstate some form of disclosure.
- Two primary types of disclosure are under consideration:
  1. The yearly tax bill would contain a notice of the Right to Farm Ordinance that would likely include contact information as well as a website link. The notice may also have the advisory to notify tenants, if appropriate, and
  2. Provide disclosure to potential buyers in the title documents at the time of closing.

The Grievance Committee portion of the Ordinance was also discussed. Historically, the Grievance Committee was never convened, as the complaints received were able to be resolved via the Ag Commissioner's office. However, the Grievance Committee is part of the ordinance and still may be convened on an as-needed basis. The timeline for complaint submittal to the Committee is ten days and the Committee has 30 days after that to respond. As part of the Ordinance update, the composition of the Grievance Committee would be updated.

#### Subcommittee Discussion

The Committee supported the suggested types of disclosure (via real estate disclosures and tax bills), as well as revisiting the composition of the Grievance Committee. Additionally, it was emphasized that the need for outreach to the Real Estate industry was critical. Thus, the following was recommended by the Subcommittee:

- Subcommittee members Kurt Gollnick and Bill Hammond will meet with the legislative relation representative of the relators association, Kevin Stone, to introduce the concept and keep them apprised. Information will not be placed on the deed as has been done in the past, but rather as part of the disclosures that are signed during real estate transactions.
- Notification to schools and non-owner occupied properties should be done by the district offices and landlords, respectively, as well as the adjacent farmer.
- County Counsel advised following AG 1.9 of Nadia Amador's memo to the subcommittee as closely as possible to allow for better defensibility. The County is adding to what the state provides for already. The primary goal is to educate/inform the property owners.

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**PUBLIC COMMENT:**

The real function of the ordinance is to head off problems before going to court (Bob Perkins).

**MOTION:** A motion was made by Bill Lipe, seconded by Bill Hammond and approved to recommend that the three issues proceed to the Planning Commission workshop. Subcommittee members Hammond and Gollnick will follow up with Kevin Stone of the Planning Commission.

**AYES:** 3

**NOES:** 0

**ABSENT:** 1 (Violini)

**V. Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 4:25 p.m.