

MINUTES



County of Inyo Board of Supervisors

November 7, 2017

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of 8:33 a.m., on November 7, 2017, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Mark Tillemans, presiding, Dan Tothoroh, Jeff Griffiths, Rick Pucci, and Matt Kingsley.

PUBLIC COMMENT Chairperson Tillemans asked for public comment during the first public comment period and there was no-one wishing to address the Board.

CLOSED SESSION Chairperson Tillemans recessed open session at 8:33 a.m. to convene in closed session with all Board members present to discuss the following items: No. 2 **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (two cases); No. 3 **PUBLIC EMPLOYMENT [Pursuant to Government Code §54957]** – Title: Health and Human Services Director; No. 4 **CONFERENCE WITH LABOR NEGOTIATORS [Pursuant to Government Code §54957.6]** – Employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. Agency designated representatives: County Administrative Officer Kevin Carunchio, Assistant County Administrator Rick Benson, Deputy Personnel Director Sue Dishion, County Counsel Marshall Rudolph, and Assistant County Counsel John Vallejo; and No. 5 **CONFERENCE WITH REAL PROPERTY NEGOTIATORS [Pursuant to Government Code §54956.8]** – Property: APN 010-490-12, Bishop, California. Agency Negotiators: Kevin Carunchio, County Administrator; and Marshall Rudolph, County Counsel. Negotiating Parties: Inyo County and Inyo County Development LLC. Under Negotiations: price and terms of payment.

OPEN SESSION Chairperson Tillemans recessed closed session and reconvened the meeting in open session at 10:07 a.m. with all Board members present.

PLEDGE Supervisor Kingsley led the Pledge of Allegiance.

REPORT ON CLOSED SESSION County Counsel Marshall Rudolph reported that no action was taken during closed session that is required to be reported.

PUBLIC COMMENT Chairperson Tillemans asked for public comment during the second public comment period and there was no-one wishing to address the Board.

COUNTY DEPARTMENT REPORTS Information Services Director Scott Armstrong provided an update on the status of the Board meeting streaming service. He said the program had been successfully tested in a controlled environment and today's meeting would be the first live test, after which there would be another five tests before the service would be officially launched. He said a link to the live feed is now available on the County website, along with an email address for feedback from members of the public who are viewing during the test phase. He also recognized the work and time put into the project by Network Analyst Mike Baffrey and retired IS Director Brandon Shults. Supervisor Kingsley said the streaming service will be of real benefit to those in far-flung areas of the County who take advantage of it.

Chief Probation Officer Jeff Thomson offered a thorough overview of bail reform legislation that could result in the elimination of the cash bail system across the state. He noted that Inyo County is ahead of the curve on reform efforts, having already begun implementing some of the

evidenced-based practices that are recommended regarding pre-trial detention. Supervisor Griffiths, who asked for the update in response to talk about bail reform at the California State Association of Counties, asked about protections for the public. Thomson said risk assessments will help determine whether individuals are flight risks or dangers to the public and need to stay in custody prior to trial. Thomson also provided an update on S.B. 190 and what fees can and cannot be charged to parents and guardians with youth in the juvenile delinquency system beginning January 1, 2018. He noted that Inyo County is again ahead of the curve with regard to revision of juvenile fees. He concluded with announcing upcoming Drug Court graduations on November 29 and December 13 in Bishop.

Water Director Dr. Bob Harrington announced the November 9 Owens Valley Groundwater Authority meeting had been scheduled to December 14 from 2-5 p.m. at the Tallman Pavilion at the Tri-County Fairgrounds. He said there would also be a Water Commission meeting December 6 at 6 p.m. at Jill Kinmont Boothe School, and said a Standing Committee meeting time and date is still being scheduled.

Interim HHS Director Marilyn Mann said CSAC is sponsoring updated training next week on IHSS matters, including negotiations moving forward, and she would be bringing the information back to the County in the next couple of weeks.

INTRODUCTIONS

Interim Health and Human Services Director Marilyn Mann introduced the following new HHS employees: Brianne Chappell McGovern, Disaster Preparedness Prevention Specialist, Vanessa Ruggio, HHS Specialist IV, and Alexis Safarik, Office Clerk III. Information Services Director Scott Armstrong introduced new Programmer/Analyst IV Benjamin C. Mitchell.

DISTRICT ATTORNEY – AV EQUIPMENT DONATION

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to authorize the District Attorney's acceptance of a donation of Audio/Visual Recording Equipment from a private donor through Wild Iris Family Counseling and Crisis Center, pursuant to Inyo County Code Section 6.26.020. Motion carried unanimously.

P.W. – TEAM, INC. CONTRACT

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to: A) approve the contract between the County of Inyo and TEAM, Inc. of Bishop, CA for Environmental Services in an amount not to exceed \$67,000; and B) authorize the Chairperson to sign, contingent on all appropriate signatures being obtained. Motion carried unanimously.

SHERIFF – DOOLEY ENTERPRISES SOLE- SOURCE & P.O.

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to: A) declare Dooley Enterprises, Inc. of Anaheim, CA a sole-source provider of Winchester ammunition; and B) authorize a purchase order to Dooley Enterprises, Inc. in the amount of \$18,480 for the purchase of ammunition. Motion carried unanimously.

SHERIFF – LT. BALDWIN SERVICE WEAPON

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to: A) determine that Lt. Paul Baldwin's duty weapon is no longer required for public use pursuant to Inyo County Code Section 6.28.040B; and B) pursuant to Penal Code Section 26615, authorize Sheriff Lutze to sell a Glock Model 22 to retiring Lt. Paul Baldwin for fair market value. Motion carried unanimously.

BOS – INYO 2018 GSFA ALLOCATION

Moved by Supervisor Kingsley and seconded by Supervisor Pucci to: A) approve a letter to the California Debt Limit Allocation Committee (CDLAC), requesting the assignment of Inyo County's 2018 allocation of private activity bonds to Golden State Finance Authority (GSFA-formerly CHF) for inclusion in the Mortgage Credit Certificate (MCC) Program, which is a Rural County Representatives of California (RCRC) housing program, and authorize the Chairperson to sign; and B) authorize the County Administrator to sign the Housing Element Certification Form. Motion carried unanimously.

PLANNING – BROWNFIELDS COALITION RLF GRANT APPLICATION MOU

CAO Carunchio introduced an item from Planning regarding a request from the Rural Desert Southwest Brownfields Coalition, the work of which he said has long benefited Inyo County. Emily Christensen with BEC Environmental, a consultant for the Coalition, provided a brief overview of the history of the Coalition and its recent activities, including applying for and receiving a \$1 million Brownfields Revolving Loan Fund from the Environmental Protection Agency for clean-up activities on brownfields sites in four member counties. She explained the Coalition was now asking for Inyo County to sign off on an additional Revolving Loan Fund grant to expand the program to all seven member counties, including Inyo County, and sign an MOU for ongoing participation in the Coalition and related grant activities. Chairperson Tillemans offered his

compliments on the work done in Inyo County so far. Moved by Supervisor Pucci and seconded by Supervisor Kingsley to : A) approve the Fiscal Year 2018 draft U.S. Environmental Protection Agency (EPA) Brownfields Revolving Loan Fund (RLF) Grant application; B) authorize the Chairperson to sign a Memorandum of Agreement for ongoing participation in the RDSBC, which includes activities related to the Fiscal Year 2017 Assessment grant already awarded to the Coalition by the EPA and future activities associated with this Brownfields RLF grant, if awarded; and C) designate the County Administrator or his designee as the County's representative to the Brownfields Coalition Program Team. Motion carried unanimously.

*PLANNING-YUCCA
MTN. – RATIFY USGS
JOINT FUNDING
AGREEMENT*

Project Coordinator Ryan Smith-Standridge presented to the Board for ratification a Joint Funding Agreement with the U.S. Geological Survey for monitoring wells related to the Yucca Mountain program. Moved by Supervisor Totheroh and seconded by Supervisor Pucci to ratify and approve the Joint Funding Agreement with the U.S. Geological Survey for Wells and Springs Monitored in the Amargosa Desert for the period of October 1, 2017 through September 30, 2018 in an amount not to exceed \$8,000, and authorize the Chairperson to sign. Motion carried unanimously.

*SHERIFF – ANIMAL
SHELTER MOU WITH
BISHOP SCHOOL
DISTRICT*

Lt. Juan Martinez presented to the Board a request to approve a Memorandum of Understanding between the Sheriff's Department and Bishop Unified School District that would allow for an after-school elective where students train dogs at the Animal Shelter. He said the program has been carried out in previous years, and the principal has spoken of the benefits for students while the shelter manager has said the training helps increase the adoptability of animals. Martinez noted that the animals are screened and carefully selected for the program, which is divided into spring and fall sessions. Supervisor Kingsley said it sounds like a great program. Moved by Supervisor Kingsley and seconded by Supervisor Pucci to approve the Memorandum of Understanding between the Sheriff's Department and the Bishop Unified School District for the "After School Dog Project" which provides students at Palisade Glacier High School an after-school elective to train dogs residing at the Inyo County Animal Shelter for school year 2017-2018. Motion carried unanimously.

*SHERIFF – DEPUTY
SHERIFF POSITION*

Lt. Juan Martinez presented a request to fill a deputy sheriff vacancy. Moved by Supervisor Kingsley and seconded by Supervisor Totheroh for the Board to find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) Deputy Sheriff position exists in the General Fund, as certified by the Sheriff and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an external recruitment would be more appropriate to ensure qualified applicants apply; and C) approve the hiring of one (1) Deputy Sheriff at Range 67SA-SC (\$4,232 - \$5,408) and authorize up to the D step for a qualified lateral applicant. Motion carried unanimously.

*HHS-ESAAA – CDA
CONTRACT
AMENDMENT 1*

Interim HHS Director Marilyn Mann presented an amendment to a contract with the California Department of Aging to increase an allocation for Eastern Sierra Area Agency on Aging. She said it would primarily affect the ombudsman and food programs. Moved by Supervisor Totheroh and seconded by Supervisor Pucci to ratify and approve Amendment No. 1 to Standard Agreement for Contract No. AP-1718-16 between the County of Inyo and the California Department of Aging, increasing the overall allocation by \$7,296 for a total contract amount of \$730,256 and modifying Exhibit D, and authorize the Interim HHS Director to sign. Motion carried unanimously.

*HHS – RE-ENTRY
SERVICES
COORDINATOR &
REVISED JOB
DESCRIPTION*

Interim HHS Director Marilyn Mann reminded the Board that the Re-Entry Services Coordinator position was approved a few years ago as part of a pilot program to reduce recidivism in the jail and improve continuity of care for inmates as they re-enter their communities. She said the person who filled the position created a strong system but has taken a job elsewhere. Since then, the Community Corrections Partnership (HHS, Sheriff, D.A., Probation) felt the job description needed some minor changes to allow for more flexibility regarding which department houses the position. Supervisor Kingsley said he supported filling the position, which he said seemed like a role not just anyone could fill. He wished HHS success in the recruitment. Moved by Supervisor Kingsley and seconded by Supervisor Totheroh to approve the revised Re-Entry Services Coordinator job description and find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position exists in non-General Fund budgets, as certified by the Interim Health and Human Services Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates meet the

qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an external recruitment would be more appropriate to ensure qualified applicants apply; and C) approve the hiring of one (1) Re-Entry Services Coordinator at Range 73 (\$4,804 - \$5,843). Motion carried unanimously.

*HHS-FISCAL – OFFICE
TECH III*

Interim HHS Director Marilyn Mann presented a request to fill a vacant Office Technician III position. Moved by Supervisor Totheroh and seconded by Supervisor Pucci for the Board to find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) Office Technician III position exists in non-General Fund budgets, as certified by the Interim Health and Human Services Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an external recruitment would be more appropriate to ensure qualified applicants apply; C) approve the hiring of one (1) Office Technician III at Range 63 (\$3,791 - \$4,613); and D) if an internal candidate is hired as a result of the open recruitment, authorize HHS to backfill the resulting vacancy. Motion carried unanimously.

*PW – 2018 INYO
COUNTY RTIP
PROJECTS*

Transportation Planner Courtney Smith reviewed for the Board the process by which projects become programmed into the State Transportation Improvement Plan (STIP). He explained the Local Transportation Commission (LTC) will be submitting a Regional Transportation Improvement Program this December for ultimate approval by the California Transportation Commission (CTC). He said the only County project proposed at this time is the Lone Pine Town Rehab Project, while the City of Bishop proposes funding the environmental component of the East Line Street Bridge project. He said once the Olancho-Cartago Four-Lane Project is funded, both the County and City should be able to more actively participate in the STIP. Chairperson Tillemans asked how the Lone Pine project was selected, noting that when he served on the LTC, Glacier Road was identified as a priority for rehabilitation. Public Works Director Clint Quilter explained staff came before the Board in 2015-2016 to discuss project priorities, at which time the Board directed that a Project Study Report (a pre-requisite for funding) be developed for the Lone Pine street projects, which is why staff is not presenting other options now. Reiterating Smith's earlier comments, he said when the Olancho-Cartago project is finished, the County can identify more projects for Project Study Reports. Both he and Smith noted that Glacier Road would be an appropriate candidate for the Federal Lands Access Program, and Chairperson Tillemans asked that if the opportunity arose, Glacier Road be considered for that program. Supervisor Kingsley said he hoped the CTC, when considering the LTC's proposal, recognizes that Inyo, Mono, and Kern counties have put millions of dollars into the State Highway System via the U.S. 395 Four-Lane Project. Moved by Supervisor Kingsley and seconded by Supervisor Pucci to authorize the Public Works Director to sign any documents related to the 2018 RTIP. Motion carried unanimously.

*CAO/SHERIFF –
EMERGENCY
SERVICES –
ONSOLVE, LLC
CODERED FIRST
AMENDMENT & IPAWS
ADDENDUM*

CAO Carunchio reported that when Sheriff Lutze jumped at the opportunity to add a social media app to Inyo County's CodeRED system, it increased the contract amount with the service provider, necessitating a contract amendment. Sheriff Lutze discussed the bonuses of the app, including the fact it will allow visitors to receive emergency notifications while they are in the area. Supervisor Totheroh shared some positive feedback about the CodeRED system from his constituents in avalanche zones, who also suggested notifications could be sent out when avalanche danger has subsided. Moved by Supervisor Kingsley and seconded by Supervisor Totheroh to: A) ratify and approve the First Amendment and IPAWS Addendum to the CodeRED Service Agreement between the County of Inyo and ONSOLVE, LLC, for the additional annual service fee amount of \$2,500; B) approve ONSOLVE, LLC as a sole-source provider of the CodeRED services; and, C) authorize the Inyo County Sheriff, or his appointed Designee, to sign the First Amendment and IPAWS Addendum to the ONSOLVE, LLC - CodeRED Service Agreement. Motion carried unanimously.

*HERE IT COMES
EMERGENCY*

CAO Carunchio reported that representatives from the City of Los Angeles have indicated they are considering ending the Mayor's emergency proclamation, which cleared bureaucratic channels to facilitate funding and staffing of response efforts during the Here It Comes Emergency. He said he was grateful for those efforts. Emergency Management Specialist Kelly Williams provided a recap of the arduous process of trying to get emergency funding for the washed-out bridge on Round Valley Road, which involved amending the County's emergency proclamation, seeking the help of Assemblyman Devon Mathis, doggedly following up with CalOES, and eventually hearing last week that the County qualifies for California Disaster Assistance Act funding, rather than Federal Highway Administration funding as originally

suggested. Supervisor Totheroh thanked Williams for all her hard work and said the timing of the news could not be better considering tonight's meeting in 40 Acres to update residents on the bridge repair status. Carunchio said it's obvious how hard Williams works on all of the County's emergencies and obviously the funding for the bridge is a very big deal, but it should be stated that it is her perseverance that gets these results. Moved by Supervisor Totheroh and seconded by Supervisor Pucci to continue the local emergency known as the "Here It Comes Emergency" that was proclaimed in anticipation of run-off conditions from near-record snowpack posing extreme peril to the safety of property and persons in Inyo County. Motion carried unanimously.

**ROCKY ROAD
EMERGENCY**

Moved by Supervisor Kingsley and seconded by Supervisor Pucci to continue the local emergency known as the "Rocky Road Emergency" that was proclaimed as the result of flooding, mud, and rock landslides and deep snow drifts over portions of Inyo County caused by an atmospheric river weather phenomena that began January 3, 2017 and continued throughout February. Motion carried unanimously.

**LAND OF EVEN LESS
WATER EMERGENCY**

Moved by Supervisor Kingsley and seconded by Supervisor Totheroh to continue the local emergency known as the "Land of EVEN Less Water Emergency" that was proclaimed as a result of extreme drought conditions that existed until recently in the County, while considering how to address the ongoing hydrologic issues in West Bishop. Motion carried unanimously.

**GULLY WASHER
EMERGENCY**

Moved by Supervisor Kingsley and seconded by Supervisor Pucci to continue the local emergency known as the "Gully Washer Emergency" that resulted in flooding in the central, south and southeastern portion of Inyo County during the month of July, 2013. Motion carried unanimously.

**DV DOWN BUT NOT
OUT EMERGENCY**

Moved by Supervisor Kingsley and seconded by Supervisor Totheroh to the local emergency known as the "Death Valley Down But Not Out Emergency" that was proclaimed as a result of flooding in the central, south and southeastern portion of Inyo County during the month of October, 2015. Motion carried unanimously.

**CLERK OF THE
BOARD – APPROVAL
OF MINUTES**

Moved by Supervisor Totheroh and seconded by Supervisor Griffiths to approve the minutes of the regular Board of Supervisors meetings of September 19, 2017, October 3, 2017, October 10, 2017, and October 17, 2017, and the special Board of Supervisors meetings of September 26, 2017 and October 23, 2017. Motion carried unanimously.

**CORRESPONDENCE-
ACTION – AUTHORIZE
FISH&WILDLIFE
COMMISSION LETTER**

Supervisor Rick Pucci reported that the Inyo Fish and Wildlife Commission requested the Board's permission to send a letter to the California Deer Association to request funding support of a Caltrans road project that would protect animal activity by establishing a safe crossing, either an over- or underpass. He said this past year saw the highest mortality rate of animals on U.S. Highway 395 than it's seen in many years. Moved by Supervisor Pucci and seconded by Supervisor Griffiths to authorize the Commission to send a letter to the California Deer Association requesting the Association's support of a Wildlife Crossing Project in the Eastern Sierra and funding for the first portion of the project, which is in Mono County. Motion carried unanimously.

**BOARD AND STAFF
REPORTS**

Supervisor Totheroh noted that he was supposed to be part of a Forest Service panel discussion on the Forest Plan Revision process today, but it was rescheduled for tomorrow morning in Placerville.

Supervisor Pucci brought attention to a letter written by a local resident, a former POW who was confined with Senator John McCain during the Vietnam War, expressing criticism of NFL players taking a knee during the National Anthem. Supervisor Pucci said he wanted to recognize that there is a very important person in the community with views on the issue.

Supervisor Kingsley said he traveled throughout his district before and after his Washington, D.C. trip, including to the Firemen's Fling and grand opening of the water vending system in Tecopa where he highlighted that the project was not without its challenges. On the way home from D.C., he said he attended Old West Days in Shoshone and participated in a history panel about Marta Becket. He said in D.C., he, Supervisor Griffiths, and CAO Carunchio took advantage of opportunities to engage with the BLM and Department of the Interior and said he could feel a definite shift in tone, as Inyo County was able to access the highest-level Interior official yet: the Assistant Deputy to the Undersecretary. He noted they advocated for the

Alabama Hills National Scenic Area legislation.

Supervisor Griffiths said he attended a Treasury Oversight Committee meeting where approval of a very large loan to the Southern Inyo Healthcare District was recommended to enable receipt of payments they are due.

CAO Carunchio said he thought Inyo County was very well represented in D.C. as relationships grow stronger and the County learns a bit more. He echoed Supervisor Kingsley's sentiments about the unprecedented access to the 6th Floor of the Interior building being evidence of an overall change, and noted that in addition to meeting with the County's elected representatives, further inroads were also made on efforts to improve broadband infrastructure in Inyo County, including Death Valley National Park.

Chairperson Tillemans noted he received a letter from the Bishop Tribe extending an invitation to designated Board of Supervisors consultation representatives – not necessarily requesting consultation – but to discuss topics of mutual interest.

RECESS FOR LUNCH The Chairperson recessed the meeting for lunch at 11:40 a.m. and reconvened the meeting at 1 p.m. with all Board members present.

*PRESENTATION –
UPDATE FROM KEN
BROWN/WCA* Ken Brown, executive director of Western Counties Alliance (WCA), offered an overview of issues WCA has been following and some of the work WCA and he personally have been doing to address on behalf of the membership, which includes Inyo County. Topics he discussed included geothermal revenue, Safe Route to Schools funding, public land transfers, R.S. 2477 road rights, sage grouse, federal Payments-in-Lieu of Taxes and the Bureau of Land Management's wild horse and burro program. Of the latter, he said the numbers of wild horses and burros on public lands continues to be a problem in Western states, especially for Nevada and Wyoming. He said the BLM is trying to address the issue with its gathers and adoption events, but quite a few of the animals are being turned loose back onto public land by adopters who were not ready for the commitment and/or expense. He said evidence of the abandonments include wild horses that are found with shoes and sometimes halters. Regarding PILT, Brown said he is working with NACO and the Interior Budget Office to push a proposal through that will increase the allotment for "B" counties – those with a large amount of public land and small populations that receive 37 cents per acre. He said his proposal involves taking \$5 million from the estimated annual \$230 million unused by "A" counties and adding a line-item to the budget just for B counties. Brown told the Board he would continue to monitor these and other issues and keep the County informed. Supervisor Kingsley said he especially appreciated the update on the wild horse and burro program. Chairperson Tillemans thanked Brown for his presentation.

RECESS FOR BREAK The Chairperson recessed the meeting for a break at 1:22 p.m. and reconvened the meeting at 1:30 p.m. with all Board members present.

*CAO/CC/PLANNING
/PW/AG
COMMISSIONER –
DRAFT PROPOSED
CANNABIS
ORDINANCES* Chairperson Tillemans announced that while he legally has no conflict of interest, in deference to the perceived conflict of interest due to his expressed interest in private enterprise in the cannabis industry, he was recusing himself from the discussion and turned the meeting over to Vice Chairperson Totheroh. Chairperson Tillemans left the room, at which point Vice Chairperson Totheroh introduced the agenda item. CAO Carunchio provided the Board with a brief overview of the matter at hand – a review of three draft ordinances regulating commercial cannabis activity – and the process that led to their development. He noted that the documents have been informed by discussions and input at Board meetings, public workshops, one-on-one meetings with stakeholders, and input from the County's consultant, HdL. He commended the Cannabis Working Group, comprised of County staff, and GIS Coordinator Mike Hays for their work. Carunchio also announced additional upcoming public meetings (November 8 in Olancho, November 14 at the Big Pine Town Hall, November 15 at Cerro Coso College, and Nov. 17 in Tecopa), with the final ordinance adoption process starting later in December with final recommendations in January. He also noted that the proposed regulations do not address personal use, for which the State sets minimum standards.

Planning Director Cathreen Richards reviewed the first proposed ordinance, which establishes zoning changes and a proposed Conditional Use Permit process by which commercial cannabis operations would be allowed. She presented proposed activities by zone as well as various

policy questions and considerations. There was discussion about setbacks in rural neighborhoods and whether they would be sufficient to mitigate odor issues. The Board also discussed how parcel sizes can wildly fluctuate in Rural Residential zones.

Assistant County Counsel John Vallejo presented the next draft ordinance addressing nuisance abatement, which specifically addresses commercial cultivation and accelerates the time in which the County can abate illegal cultivation. He also presented the ordinance for creating a business license that would help the County keep track of taxes as well as regulation and compliance issues. He said a key component of the business license is encouraging a competitive market that allows the County some oversight as to who and where the operations are. The ordinance proposes limiting the number of licenses issued, by supervisorial district. Supervisor Griffiths said he liked the idea but suggested they be divided either on a geographic or neighborhood basis instead. Supervisor Kingsley said dividing his district into communities or neighborhoods could prove problematic. Discussion continued about concentration of business permits and possible over-saturation in some areas. CAO Carunchio noted the retailers, or storefronts, will be driven by market forces, but the question with cultivation will be whether the County wants to limit small growers and have them concentrated on one mega parcel, or spread out. Vice Chairperson Totheroh noted it is better to limit the number of licenses now and expand later if needed. Vallejo said the permit process also includes a scoring process, noting that the list of criteria was compiled with input from the Working Group and HdL, and after looking at examples from other counties (one example being "Community Benefit," i.e. donating to the community). He said the ordinance requires the licenses to be renewed annually, up to 7 times without the operator having to go back through the open, competitive process. He said HdL said 5-7 years is the general turnaround time for profit. Vallejo said a license can be revoked at any time, and history of operation will have bearing on the scoring process. Supervisor Totheroh said 7 years seems like a short time to amortize on an investment. Vallejo said the idea is to balance an operator's ability to establish a viable business while guarding the general public interest. CAO Carunchio noted that a future Board might want to reduce the number of licenses available and the only opportunity for it to do so is during the renewal period. Supervisor Kingsley said the County will want to have high-quality facilities and have people investing in those facilities so they stay high-quality, and a short-term license might make such investors hard to find. He said the County itself is frustrated at the difficulty in obtaining grants because of short-term leases with the LADWP. Staff then gave the Board the opportunity to review maps of communities with proposed zoning. Supervisors Griffiths and Kingsley each had a few questions about the zoning of specific neighborhoods and communities, which staff answered.

Vice Chairperson Totheroh opened the floor to public comment. Dustan Moore of Big Pine acknowledged the County's hard work and said commercial cannabis could bring economic benefits to the county. He said the moratorium currently proposed would prevent local operators, already competing for investors' dollars, from applying for a State license and put them at a disadvantage. He proposed the Board authorize an application period for temporary licenses to the few parties ready to move forward so they can obtain their State licenses while the County gets its regulations in place. David Saccullo said he has been involved in the cannabis industry for more than 30 decades and was representing himself as well as an investment group with which he shares a 1,000-acre parcel in Chicago Valley. He said the County's ordinances have good, solid redundancies built in but the cap on license renewals will not attract investors with the tens of millions of dollars needed to actually get started. He said no one is in a position to see a return on their investment in 5-7 years. He urged the Board to consider infinite renewals for productions in good standing, for mutual benefit. Susan Patton of Cartago said she owns a 46-acre parcel zoned part Open Space, part Rural Residential and was concerned about over-saturation of grow operations in her area. She suggested a formula for spreading them out. She also noted that tourist areas, where commercial operations would be allowed, are also where children gather for bus stops. She said she wants big setbacks so her dogs or horses don't ingest any marijuana, and is concerned about the drawdown of the water table and possible contamination. John Miller of Sierra Grows, Inc., located in Olancho, said it is incredibly costly for a small farmer to take the steps necessary for State licensure – more than \$100,000 just to properly secure a one-acre site. He said the County should differentiate between 2-acre and 200-acre parcels when considering Rural Residential zones, and said availability of capital should be included in the scoring criteria because he could guarantee when some of these operators run out of money, there will be undesirable people coming in and financing them. He added that the idea should be community building, with operations ultimately benefiting the community. Ben Hynes said artificially limiting the number of

licenses and renewals will lead to sabotage, professional whiners and lawsuits, which nobody wants. He said the market will work itself out if allowed to. Jacob Wagener of PALS Collective said he is concerned for his 1,500-plus patients if he can't get a temporary license at the end of the month and the patients are either pushed to the black market or left without medicine. He said he hopes the community can help them continue their service, and noted PALS meets all the criteria on the draft scoring list. He said existing operations should be given priority and added that parcels could be operated like co-ops so people can help develop capital for their communities. Lowell Shade said he disagreed with the competitive scoring because it doesn't take into account those who have been long-time growers in the area. He also said the 7-year license cap would be impossible to sell to investors and allows somebody with a bigger pocketbook to take that license. Charles Sorrells said he owns 1,000 acres in Chicago Valley that are presently zoned Open Space and which he plans to sell to developers, but is concerned the short time period for licenses will not allow them to recoup their investment. Alena Wagener of PALS Collective expressed concern about the licensing process and how it will affect their patients. She asked for direction from the Board as to what she was supposed to do in order to keep serving her patients, in compliance with the voters who approved Prop 215, and staying in compliance with County regulations at the same time so as not to be penalized during the eventual competitive scoring process. She said PALS has never tried to violate County Code, has operated transparently, and pays its taxes. Rutt Preamsairut said his family owns land in Chicago Valley and is hoping one day to recoup the taxes it's paid on it. He said Inyo is strategically located and commercial cannabis is a huge economic opportunity, so capping licenses doesn't make sense. He urged the County to look to the future when cannabis is legalized at the Federal level. Reggie Cook from Lone Pine and operator of a collective for six years said the County should have a stricter testing regimen in place than the State in order to differentiate between non-harmful and harmful fungus. He also said intensive track and trace regulations will lead to serious storage issues for smaller operators. Steve McNeil of Tecopa said nobody is going to invest the kind of money needed for these cannabis operations with a 7-year permit cap. He noted that the State sends inspectors to these facilities and can revoke licenses for violations and suggested the County could do the same thing. He also objected to the provision in the ordinance requiring operators to pay employees \$50,000 a year. He said it's not up to the County to dictate pay rates and doesn't know of any private business that can afford to pay all of its employees \$50,000. Regarding other concerns, he said cannabis will be grown in warehouses or greenhouses, so contamination of the soil and groundwater shouldn't be an issue. He also noted that cannabis requires half the water that alfalfa does and smell should not be a problem in warehouses. He also suggested the County look at regulating the distance between dispensaries and concluded that the market will ultimately control the outcome. Chris Little, owner of 500 acres in Olancho, said it's his understanding that manufacturing is where the revenue really is, but it appears the County's zoning ordinance limits manufacturing to M1 and M2 zones. He said of the very small amount of private land available in Inyo County, even less is zoned for manufacturing and most of it is already taken. He asked the Board to consider allowing manufacturing on open space parcels and large Rural Residential parcels with big setbacks, and said these could even be sited better than some M1 and M2 zones. Heather Cole, a leukemia survivor and commercial cannabis developer, said it is remarkable what the County has drafted. But she said if she as a developer has \$15 million on the line, and can only be guaranteed a permit for 7 years, she will have to take that money somewhere else.

Vice Chairperson Totheroh closed public comment and asked for comments from the Board. Supervisor Kingsley asked for clarification from staff on the storage issues described by Reggie Cook. He also asked what's going to happen to cooperatives on January 1 and was told that the law allowed primary caregivers to still provide medical marijuana to patients. Outside of that, he said the County's posture on cooperatives has been pretty clear in that nobody has thus far been hauled before the Board for a violation. Supervisor Pucci said the issue for his constituents is allowing commercial activities in rural areas and thinks if the parameters surrounding Rural Residential parcels were clarified – perhaps to only apply to the larger parcels – it will solve confusion and go a long way to reaching middle ground on the issue. He also said the operators must first have their permits renewed each year before reaching the 7-year permit cap, so essentially they're facing one-year caps and if they're meeting the necessary requirements, shouldn't have to worry. He said he agreed that establishing salary amounts was not helpful, and could lead to people being paid under the table, and said he didn't know a lot of people getting paid \$50,000 to check the water. Supervisor Kingsley said he doesn't believe Inyo County is financially motivated by commercial cannabis tax revenue, but rather following through on direction from voters. He said the Board wants to continue with the

methodical approach it has taken in order to get it right. He supports the Conditional Use Permit approach and has concerns about clustering operations, but acknowledged concentrating them in certain areas would allow them to grow and thrive without affecting neighbors or communities. He said he thinks the review process for permits needs another look, as does the Rural Residential issue, and said it's important the County encourages high-quality businesses. He said he thinks the comments about manufacturing zones were interesting. Supervisor Griffiths said manufacturing operations outside of manufacturing zones is something the Board can look at. He said the reason the County is undergoing this process and proposing a limit on licenses is because it wants an orderly process that doesn't negatively impact communities. He said the County is doing the will of voters but noted the vote supporting regulations to allow commercial activity was not an overwhelming majority, so the Board has a responsibility to use objective criteria to find the most successful operators and responsible stewards of the environment. He said that's not picking winners or losers. He also said the County is not motivated by tax revenue, and reminded the audience they only speak for a segment of the population that the Board serves. He said he understands the 7-year permit cap could be a hindrance to financing but there should also be a way to see the permits competitively reallocated so that operators aren't holding them forever. Vice Chairperson Tothoroh noted that at one of one the Board's first meetings on commercial cannabis, the County's consultant recommended only looking at money from the standpoint of recovering implementation costs. He said if the tax revenue helps the tax base, good, but that's not his motivation. He also advocated for an orderly system and noted that, because the Conditional Use Permit requires neighborhood input, it could possibly be used to develop an appropriate minimum size for Rural Residential parcels. He also agreed that whether somebody has the financial capability to successfully start up an operation is an important consideration. He thanked everyone for their patience and input. County Counsel Marshall Rudolph clarified that, moving forward, community members may see more than three Board members attending some of the public cannabis meetings at the same time. He said the Brown Act allows them to do this, just as any other member of the public, as long as they are not discussing the matter among themselves.

*CAO/CC/PLANNING
/PW/AG
COMMISSIONER –
DRAFT PROPOSED
COMMERCIAL
CANNABIS
MORATORIUM
ORDINANCE*

Assistant County Counsel John Vallejo presented to the Board a draft, proposed ordinance to enact a temporary (45-day) moratorium prohibiting commercial medical and recreational cannabis activities. He explained the moratorium is intended to protect the County's ability to implement a coherent regulatory system and prohibit businesses from obtaining State licenses before that system is in place, so that they cannot become "grandfathered in" and operate outside of the County's regulations. He stressed that the ordinance is intended to give the County time to get its regulations in place and is not intended to be a sword to go after entities currently operating in a legal gray area. He said he fully expected the moratorium to be lifted once the County's other cannabis ordinances are in effect. He elaborated that currently, County Code allows the County to prohibit cannabis activity through permissive zoning, but there exists a "carve-out" area that's very gray for non-profit medical collectives. He reiterated from the previous agenda item that the County's posture to date has been very clear in that it has not sought any regulatory action against medical cooperatives. County Counsel Rudolph added that the moratorium does not make something illegal that's currently legal, but if the County did nothing before January 1 when the State starts issuing licenses for any areas where the County currently allows agriculture, the County would be hard-pressed to enforce its cannabis regulations against those operations once those regulations are eventually enacted. Vallejo added that it is not staff's intention to have the moratorium negatively impact existing operations during the future scoring process – only prevent them from getting a State license until the County's regulations are in place. There was additional discussion on the moratorium's effect on existing operations and what constitutes a legal or illegal operation. Rudolph clarified that right now, the County has the right to go after any business it deems to be operating unlawfully, explaining that the moratorium does not change anything in that regard. The discussion was opened to public comment. Speaking on the matter were Steve McNeal of Tecopa, commercial cannabis developer Heather Cole, and PALS Collective owners Jake and Alena Wagener, all of whom opposed the moratorium and objected to shutting down existing cannabis operations. The Wageners renewed their comments from the previous agenda item discussion that they were providing a community service by giving patients access to safe medicine, and were doing it legally per Prop 215 and County Code. They also said the Sheriff said they were in compliance as long as they followed the laws currently in place. Supervisor Tothoroh said he did not hear anyone saying they were trying to stop PALS from doing business. Supervisor Griffiths said County Counsel would probably be interested in the Code Jake Wagener cited, and the Sheriff, as an independent elected official, can enforce what he chooses, but he feels it's harsh for Wagener to accuse the Board of trying to shut his operation down when the Board

is taking a risk politically by establishing commercial cannabis regulations and is attempting to prevent a situation where 10 storefronts open up over the next 30 days because the County's regulations are not in place yet. He reiterated that the County has not made it a priority to enforce current zoning regulations against existing operations. Supervisor Kingsley said the County doesn't have much a choice with regard to the moratorium, otherwise its proposed regulations would be useless. He said he doesn't think the temporary ban on new operations is threatening PALS' business model, as it won't affect the status quo, as already stated by County Counsel. Rudolph further clarified for the purpose of generalities that the County cannot override State law, including Prop 215. After additional comment from audience members and further explanation by staff and Board members, Supervisor Griffiths stated once more that it's the County's position the moratorium will not change the status quo, Rudolph said he felt staff had sufficiently explained the issue, and Supervisor Kingsley said he heard what everyone had to say and respected it, and asked for the moratorium to be in place for the minimum amount of time possible, but ultimately supported the County's methodical and thorough approach. Moved by Supervisor Kingsley and seconded by Supervisor Griffiths to adopt an interim ordinance titled, "An Interim Ordinance of the Inyo County Board of Supervisors Enacting a Temporary Moratorium Prohibiting Commercial Medical and Recreational Marijuana Activities, Including Commercial Cultivation, Distribution, Storage, Manufacturing, Processing, Provision or Sale of Cannabis Products in the Unincorporated Area of Inyo County." Motion carried 4-0, with Chairperson Tillemans abstaining.

PUBLIC COMMENT

Steve McNeal of Tecopa asked the Board whether he can operate a business in Inyo County without a business license, and was advised that an Inyo County business license does not currently exist.

ADJOURN

Vice Chairperson Totheroh adjourned the meeting at 5:11 p.m. to 8:30 a.m. Tuesday, November 14, 2017 at the County Administrative Center, Independence.

Chairperson, Inyo County Board of Supervisors

*Attest: KEVIN D. CARUNCHIO
Clerk of the Board*

by: _____
Darcy Ellis, Assistant