

95-350

MARIPOSA COUNTY  
BOARD OF SUPERVISORS

AGENDA  
ACTION FORM

DATE: July 25, 1995  
AGENDA ITEM NO.: 6

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes \_\_\_ No x)

Discussion and recommendation to amend Resolution No. 77-157 which implemented the California Land Conservation Act of 1965 (as amended). The language appears to be ambiguous and unclear as a result of the passage of Proposition 13 and should be clarified. The re-drafting of this Resolution should eliminate uncertainty as to its intent. A copy of Resolution 77-157 and a copy of Counsel's memo to Supervisor Balmain are included in this packet.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On October 18, 1977 the Board adopted Resolution No. 77-157 which implemented the California Land Conservation Act of 1965 (as amended).

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- Direct Counsel to re-draft Resolution No. 77-157.
- Do not direct staff to re-draft Resolution, however, questions may arise in the future as to the intent of the Resolution.

COSTS: (X) Not Applicable  
 A. Budgeted current FY \$ \_\_\_\_\_  
 B. Total anticipated costs \$ \_\_\_\_\_  
 C. Required additional funding \$ \_\_\_\_\_  
 D. Internal transfers \$ \_\_\_\_\_

SOURCE: ( ) 4/5ths Vote Required  
 A. Unanticipated revenues \$ \_\_\_\_\_  
 B. Reserve for contingencies \$ \_\_\_\_\_  
 C. Source description: \_\_\_\_\_  
 Balance in Reserve for Contingencies, if approved: \$ \_\_\_\_\_

SPECIAL INSTRUCTIONS:  
 List the attachments and number the pages consecutively:  
 Resolution No. 77-157  
 Memo to Supervisor Balmain from Counsel dated 5/25/95.

CLERK'S USE ONLY:  
 Res. No.: 95-350 Ord. No. \_\_\_\_\_  
 Vote - Ayes: \_\_\_\_\_ Noes: \_\_\_\_\_  
 Absent: \_\_\_\_\_ Abstained: \_\_\_\_\_  
 Approved: \_\_\_\_\_ ( ) Denied \_\_\_\_\_  
 ( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.  
 Date: \_\_\_\_\_  
 ATTEST: MARGIE WILLIAMS, Clerk of the Board  
 County of Mariposa, State of California  
 By: \_\_\_\_\_  
 Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

- This item on agenda as:
- Recommended
  - Not Recommended
  - For Policy Determination
  - Submitted with Comment
  - Returned for Further Action

Comment: \_\_\_\_\_  
 A.O. Initials: [Signature]

Mariposa County Resolution No. 95-350

A Resolution Amending Mariposa County Resolution No. 77-157  
Which Implemented the California Land Conservation Act  
of 1965, as Amended, in the County of Mariposa

**WHEREAS**, in 1977 the Mariposa County Board of Supervisors adopted Resolution No. 77-157 which implemented the California Land Conservation Act of 1965 in the County of Mariposa, and

**WHEREAS**, contained in Resolution No. 77-157 in paragraph 7(g) is a formula for cancellation penalty when a landowner desires to extract its land from the Land Conservation Act of 1965, and

**WHEREAS**, paragraph 7(g) reads as follows: "The minimum cancellation penalty shall be no less than an amount equal to one hundred percent (100%) of the new assessed valuation of the property.", and

**WHEREAS**, in 1977 when Resolution No. 77-157 was adopted, the language "one hundred percent (100%) of the new assessed valuation of the property" equaled twenty-five percent (25%) of the fair market value of the property as a result of the way property was assessed prior to Proposition 13 being adopted, and

**WHEREAS**, after Proposition 13 was adopted by the State Legislature a new valuation method was instituted and the language "one hundred percent (100%) of the new assessed valuation of the property" no longer was interpreted to mean twenty-five percent (25%) of the fair market value, and

**WHEREAS**, it was the intent of the Board of Supervisors in 1977 and remains the intent of the Board of Supervisors to this date to have the minimum cancellation penalty contained in paragraph 7(g) of Resolution No. 77-157 to equal twenty-five percent (25%) of the fair market value of the property after the Land Conservation Act contract is no longer imposed on the property, and


**WHEREAS**, the Board of Supervisors desires to clarify the language contained in paragraph 7(g) of Resolution No. 77-157 for future use,

**NOW, THEREFORE, BE IT RESOLVED** that this Board of Supervisors hereby amends paragraph 7(g) of Resolution No. 77-157 to read in its entirety as follows: "The minimum cancellation penalty shall be no less than an amount equal to twenty-five percent (25%) of the fair market value of the property without the Land Conservation Contract being attached to the property."

All of the remaining terms and conditions of Resolution No. 77-157 shall remain in full force and effect.

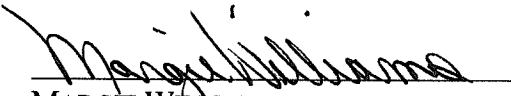
The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Mariposa, State of California, on this 25th day of July, 1995, by the following vote:


AYES: PARKER, BALMAIN, REILLY, STEWART  
NOES: NONE  
ABSTAINED: NONE  
EXCUSED: TABER

  
\_\_\_\_\_  
GARRY R. PARKER, Chairman  
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
MARGIE WILLIAMS  
Clerk of the Board

  
\_\_\_\_\_  
JEFFREY G. GREEN  
County Counsel

1 MARIPOSA COUNTY RESOLUTION NO. 77-157  
2 IMPLEMENTING THE  
3 CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED,  
4 IN THE COUNTY OF MARIPOSA  
5

6 WHEREAS, the orderly planning and development of land use  
7 is in the public interest of all taxpayers of Mariposa County; and

8 WHEREAS, agricultural production is and will remain a  
9 principal use of land in Mariposa County since other alternatives  
10 do not appear to be readily available; and

11 WHEREAS, agricultural production on these lands con-  
12 stitutes an important physical, social, aesthetic, and economic  
13 asset to the County; and

14 WHEREAS, the Land Conservation Act of 1965, as amended,  
15 provides a method for accomplishing the land use planning objec-  
16 tives of the County;

17 NOW, THEREFORE, BE IT RESOLVED that this Board of  
18 Supervisors does hereby make available to qualified landowners of  
19 Mariposa County the provisions of the Land Conservation Act of  
20 1965, as amended; and

21 BE IT FURTHER RESOLVED that for the purpose of imple-  
22 menting such Act this Board does hereby establish policies and  
23 rules for establishing and governing agricultural preserves in the  
24 County of Mariposa:

25 1. The Board on its own cognizance, or at the written  
26 request of landowners, may establish an agriculture preserve.  
27 Such preserve shall contain a minimum of 100 acres which shall be  
28 contiguous. *The Board may establish agricultural preserves of*

1 less than 100 acres if the Board finds that a smaller preserve is  
2 necessary due to the unique characteristics of the agricultural  
3 enterprises in the area and that the establishment of preserves of  
4 less than 100 acres is consistent with the General Plan of Mariposa  
5 County.

6           2. Requests for the establishment of agricultural pre-  
7 serves shall be filed with the Secretary of the Mariposa County  
8 Planning Commission on application forms provided by the Secretary.  
9 Such application form shall identify the landowner(s), locate the  
10 property on County maps, give legal description of the property as  
11 on the current Assessor's roles, state the size of the property,  
12 provide certification that the property has for the past three (3)  
13 years and is presently devoted to agricultural production and com-  
14 patible uses, and indicate the applicant's intention to enter into  
15 a contract that will qualify as an enforceable use restriction as  
16 specified in Section 422 of the Revenue & Taxation Code of the  
17 State of California.

18           3. "Agricultural production and compatible uses" refer  
19 to those enumerated in Exhibit "A", attached hereto and made a part  
20 of this Resolution; provided, however, that Exhibit "A" can be  
21 separately amended by this Board.

22           4. The Planning Commission of Mariposa County shall  
23 review all applications for the establishment of agricultural pre-  
24 serves and forward such applications, along with a Commission  
25 recommendation, to the Board of Supervisors.

26           5. The Board of Supervisors shall hold a public hearing  
27 on all applications, singularly or jointly. The purpose of such  
28 hearing is to permit all interested parties to inform themselves

1 and present testimony if desired. The Board shall establish each  
2 agricultural preserve by resolution.

3 6. At the time of establishing an agricultural preserve,  
4 the Board shall authorize the Chairman of the Board to sign a Land  
5 Conservation Act contract, of a standard form to be hereafter  
6 specified by the Board, with any owner of land within the preserve  
7 who qualifies for the contract and has requested to enter into such  
8 contract with the County.

9 7. The following conditions shall be met in order to  
10 qualify a parcel of land for inclusion within an agricultural pre-  
11 serve:

- 12 a. The parcel wishing to contract must have been  
13 used for agricultural purposes for three (3)  
14 years prior to application.
- 15 b. If contiguous, and under the same ownership,  
16 multiple parcels should be merged to create a  
17 single unit.
- 18 c. That no new dwellings be constructed on parcels  
19 less than forty (40) acres in size.
- 20 d. The agricultural use must be profitable except  
21 under uncontrollable circumstances.
- 22 e. Existing and future homesites on parcels wishing  
23 to contract shall be allocated parcel sizes of  
24 no less than 2.5 acres for appraisal purposes.
- 25 f. The minimum contract period shall be no less than  
26 twenty (20) years.
- 27 g. The minimum cancellation penalty shall be no less  
28 than an amount equal to one hundred percent  
(100%) of the new assessed valuation of the pro-  
perty.
- h. The parcel wishing to contract shall within one  
(1) year of the effective date of the contract  
be restricted by zoning of said parcel to agri-  
cultural use and said agricultural use zoning  
shall have a minimum two-year waiting period for  
change of said agricultural use which said two-  
year period shall commence upon the filing of the  
application for change of use. Application for  
change from A/E Zone cannot be made prior to the 18th year  
of the contract.



EXHIBIT "A"

"Agricultural production and compatible uses" as contained in this Resolution and applicable to land qualifying for inclusion in an agricultural preserve shall be defined as follows:

1. Agricultural Production: The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production and thus permitted within such preserves:
  - a. General farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, and other ornamental crops.
  - b. Raising, feeding, maintaining, and breeding horses, cattle, sheep, goats, hogs, chickens, and turkeys.
  - c. Dairies.
  - d. Growing and harvesting of hardwoods.
  - e. Accessory uses and structures appurtenant and necessary to the operation of the permitted uses, including one-family dwellings located on the land and occupied by persons directly engaged in the operation.
2. Compatible Uses: The following compatible uses, and those which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be permitted within such preserves, providing they are not the principle use:
  - a. Forestry, but not including any processing facilities.
  - b. Utility lines and substations.
  - c. Vending facilities for products grown on land within the preserve.
  - d. Recreation, but not including permanent structures.
  - e. Private airstrips.
  - f. Raising of game birds and fish.
  - g. Mining.





**JEFFREY G. GREEN**  
 County Counsel  
 (209) 966-3222

P. O. Box 189  
 Mariposa, CA 95338  
 FAX (209) 966-5147

The County Counsel  
 MARIPOSA COUNTY

May 25, 1995

To: Supervisor Doug Balmain, District II

From: Jeffrey G. Green, County Counsel

Re: Williamson Act Contract Cancellation- Penalties and Fees

Dear Doug:

You have requested that I provide you with an opinion as to the meaning of the language, "the minimum cancellation shall be no less than an amount equal to 100% of the new assessed valuation of the property" located in paragraph 7(g) of Resolution No. 77-157, the Resolution the Board of Supervisors adopted to implement the California Land Conservation Act. I have had discussions with individuals who were with County government at the time, including a discussion with former Supervisor Frank Long who introduced this Resolution at the Board level.

After substantial investigation, it is my opinion that that language presently equates to 25% of the fair market value of the land at the time of the cancellation without the benefit of the Williamson Act being applied to the property. The above Resolution was adopted in 1977 prior to Proposition 13. Prior to 1978, the "assessed valuation" as used in paragraph 7 (g) above equaled only 25% of the actual value of the property. In other words, when Resolution 77-157 was adopted, 100% of the new assessed valuation of the property in fact amounted to 25% of the fair market value of the property because prior to Proposition 13, the assessed valuation was equal to 25% of the value to the property.

Therefore, it is my opinion that what that language means at the present time is if a individual desires to withdraw from the Williamson Act, the penalty as described in paragraph 7 (g) would equal 25% of the fair market value absent the Williamson Act benefits being applied to the property.

Currently, the State of California minimum requirement for penalty is 12 1/2 % of the fair market value. If paragraph 7 (g) is implemented the State would receive 12 1/2% of the penalty and the County would receive the balance of 12 1/2% .

Supervisor Doug Balmain  
May 25, 1995

Page 2

After you have had an opportunity to review this, I would appreciate it if you would discuss it with me. It is my belief that we should take this matter to the Board of Supervisors and clarify the Resolution language so there is no longer any confusion.

I am additionally informed that the Board canceled a contract effective April 9, 1985 and upon cancellation of that contract, the penalty paid equaled 25% of the fair market value. Apparently, the Planning Department and Assessor's Office are interpreting the language correctly, however, I still believe that it is confusing and should be clarified.

Very truly yours,



Jeffrey G. Green  
County Counsel

cc: Gary Estep, Assessor/Recorder  
Sarah Williams, Senior Planner