

**MINUTES OF THE  
REGULAR MEETING OF THE  
TOWN OF YUCCA VALLEY PLANNING COMMISSION  
7:00 P.M., TUESDAY, FEBRUARY 23, 2010**

**CALL TO ORDER:** CHAIRMAN LOMBARDO called the meeting to order at 7:00 pm with Commissioners Humphreville and Rowe present.

**PLEDGE OF ALLEGIANCE:** MR. LOMBARDO led the pledge of allegiance.

**APPROVAL OF AGENDA:**

MS. ROWE moved that the Agenda be approved which motion was seconded by Mr. Humphreville and passed unanimously by voice vote of the Commissioners present.

**PUBLIC COMMENTS**

MR. LOMBARDO: In order to assist in an orderly and timely conduct of the meeting, the Planning Commission takes this time to consider your comments on items of concern which are not on the Agenda. When you are called to speak, please state your name and community of residence. Please limit your comments to three minutes or less. Inappropriate behavior which disrupts or otherwise impedes the orderly conduct of the meeting will result in the forfeiture of your public comment privileges. The Planning Commission is prohibited by state law from taking action or discussing items not included on the printed Agenda.

He asked if there is anybody that has comments not on the Agenda that would like to speak. Please rise, state your name and your community of residence.

DAVID MAHAFFEY: Thank you, Commissioners, Town of Yucca Valley. This is a nice evening and it's nice to have everybody here, and I thank the crowd that came out as well. My name is Dave Mahaffey, I am a citizen of Yucca Valley, and my address where I reside is 7361 Wamego Trail. Did I do okay?

MR. LOMBARDO: That's great.

MR. MAHAFFEY: And, ah, what I kind want to bring attention to again is that I have in fact in turning waste water on site into viable drinking water and I'd like to bring again to the Commissioners so that the Town of Yucca Valley is aware that we really do not need a costly sewer plant that will end up as a Federal project and Federal employees to our valley and further destruction and unnecessary pollution. I'd like you to look deeper into the projects that I'm doing, I'm sharing this with the community as I go along as quickly as I can but I am in fact creating water that is cleaner than the Delta water that we're provided, that we're paying nearly a million dollars a year for I understand. So, ah, there again, thank you for your few minutes time.

MR. LOMBARDO: Thank you. Is there anyone else that would like to speak? Please stand, come to the podium, state your name and your city of residence.

MALE SPEAKER: Thank you, Mr. Vice Chair, members of the Commission. I want to talk a little bit about our stewardship and why we are even sitting here talking about a Native Plant

Ordinance. Some people feel it's not cost effective to try to save native plants. Others aren't sure if it's cost effective. And there are some people who just don't think that the native plants that we have here are suitable for this area. Now, why they are suitable is because of the reasons that Mr. Mahaffey spoke about. They take water. Now, the native plants can deal with water or lack of it. The non-natives need water, but there are ways to overcome that that have to do with what Mr. Mahaffey was talking about. Nonetheless, those that are here are the plants that God put here, because that's what God thought would be appropriate in this area. In our infinite wisdom, we are trying to look at ideas like cost effective. I can wait until you're done.

MR. LOMBARDO: We're really supposed to discuss things that are not on the agenda. This will be coming up –

MALE SPEAKER: It's not on the agenda.

MR. LOMBARDO: Okay. Alright.

MALE SPEAKER: What I'm talking about is intent.

MR. LOMBARDO: Okay.

MALE SPEAKER: Not the whole idea about the Native Plant Ordinance. Okay?

MR. LOMBARDO: It's part –

MALE SPEAKER: It means being good stewards into the environment that we're into. Now if it gets into cost effectiveness, I will tell you that a plant that is a 48" box size can easily be cost effective, even if the cost transfer is \$500.00. Okay? There are some people who charge \$1,500.00 just for the privilege of taking a native plant. Thank you.

MR. LOMBARDO: Okay. Thank you. I want to take a second, let Margo come.

(Commissioner Sturges joined the meeting)

MR. LOMBARDO: Good. We'll get started in a second. Okay. Is there any further public discussion? Anybody want to say anything not on the agenda, comment on anything? Okay. Moving forward to Discussion Item.

## **DISCUSSION ITEM**

### **1. REORGANIZATION OF THE PLANNING COMMISSION**

#### **A. Nominate and Elect Chairman**

MR. LOMBARDO: We need to nominate and elect a chairman and at this time I'll entertain any discussion on that.

MS ROWE: No discussion. I make a motion that we nominate Vice Chairman Lombardo for the position of Chairman.

MR. HUMPHREYVILLE: I'll second that motion.

MS. STURGES: I have a discussion item. First of all, I apologize for being late. I would like to have our Commission wait until we get another member. I'm not privy as to when Mr. McKoy or what the reasons were because I wasn't here, but I understand he's not coming back anymore and so therefore we will be having another commissioner appointed, and I would like to see that we wait until that commissioner is seated before we reorganize.

MR. LOMBARDO: Okay. We have a motion on the table but discussion - - how do we handle this? Is it --

MR. HUMPHREVILLE: I do have a suggestion because either way...

DEPUTY TOWN MANAGER SHANE STUECKLE: That's totally of the Commission's discretion as to whether you desire to wait until you have the full five members --

MR. LOMBARDO: We can function fully fine with a Vice Chair and not a Chairman at this point, is this correct?

MR. STUECKLE: You can.

MR. LOMBARDO: Okay. And --

MR. STUECKLE: But, for example, at your last meeting when we had no chairman and no vice chairman and you had to take special action to appoint someone to run the meeting. Historically in terms of whether the Commission feels it's appropriate to take action on these items this evening or to wait, historically the Commission has followed a process of one of seniority, so those who have been on the Commission the longest time have tended to be appointed Chairman, Vice Chairman and rotate in that manner.

MR. LOMBARDO: Okay.

MR. STEUCKLE: So --

MR. LOMBARDO: A commissioner wouldn't change it but might have comment on it.

MR. STUECKLE: Totally at the Commission's discretion as to whether or not we want to take action this evening.

MR. LOMBARDO: I don't think it needs to be determined at this time, other than for -- how long do you figure it will take for the next chair -- the next commissioner to be appointed?

MR. STUECKLE: It is my understanding that it is scheduled for the March 2<sup>nd</sup> Town Council meeting, I've not seen that agenda but that's my understanding.

MR. LOMBARDO: Okay. And there's nothing that would stop us from reaching decisions on things before us tonight and having them valid decisions, is that correct?

MR. STUECKLE: No, sir.

MR. LOMBARDO: Okay. Then --

MR. STUECKLE: So you do have a motion and a second on the table and if the Commission desires to not take the action, we've got one of two options: a substitute motion could be made by the Commission. That substitute motion would have to have a second and that substitute motion would be voted on, or the original maker of the motion or the sec – the original motion or the second could withdraw the original motion or the second.

MR. LOMBARDO: Okay. Now let's discuss it a little bit while we're here. Should we get this done, or should we wait – you're still of the opinion – get it done? Okay.

MS. ROWE: We definitely had a need for a chairman in our last meeting and I'm not sure that I would feel comfortable appointing a brand new commissioner to either of those two positions, so I would – -

MS. STURGES: That was brought up when I spoke to Robert, as to why not wait until we have somebody that was seated and he also mentioned that it would be a new commissioner, and I brought up the possibility that maybe we might be blessed with Steve Wilman's to return, a person with experience and seniority as far as number of years, because we don't have a crystal ball. We don't know who that person will be. And I would think that in the interim, we could possibly rotate um, you know, for, if if, if our ah Commissioner Lombardo wasn't here, but I'm I'm hoping that he'll just be here and hold down the fort until we get somebody here and –

MS. ROWE: That's fine.

MS. STURGES: So would you like to withdraw your motion?

MS ROWE: Sure. If – Dr. Lombardo –

MR. LOMBARDO: My only concern is, Easter break is coming up and I know I will be gone, and I don't know how that falls on the Commission ah meeting dates, but ah if we go dark that week, that would be fine, but in fact we're in the middle of a bunch of stuff –

MS. ROWE: Mr. Humphreville?

MR. LOMBARDO: Yeah, please speak up.

MR. HUMPHREVILLE: Do we have any -- or is it even appropriate to ask if this person has been picked or suggestions made if this person has any experience in this?

MR. STUECKLE: No, staff does not have information on who the town councilmember may be having discussions with or who their nomination will be.

MS. STURGES: Excuse me. Commissioner Rowe, will you be here on Easter Vacation?

MS. ROWE: Should be.

MS. STURGES: Okay. So if you withdraw your motion, may I make a substitute motion at this time that we postpone until we get another commissioner seated and in the interim during the Easter week that you would step in as the, ah Chair?

MR. LOMBARDO: I don't know how that works because we don't have a chair, we have a vice chair only, so that's the problem.

MR. STUECKLE: There is – there is – a motion has been made, if I may, a motion has been made so there's either a second, if there is no second - -

MR. LOMBARDO: There was a second.

MR. STUECKLE: There was a second, so now you're in discussion.

MS. STURGES: Okay. And she withdrew her motion – -

MS. ROWE: Actually, I'm going to leave my motion Stand, if you'd like to make a substitute motion let's go there.

MS. STURGES: Yes, I'd to make a substitute motion that we wait until we get our, um, other commissioner seated before we proceed for our reorganization.

MR. LOMBARDO: Okay, I need a second. No second. So we're back to the first motion with a second. All those in favor?

MS. ROWE: Aye.

MR. HUMPHREVILLE: Aye.

MS. STURGES: No.

MR. LOMBARDO: Okay. It passes. I'm going to say yes because we know you've got a chairman. Okay? Alright.

## **B. Nominate and Elect Vice Chairman**

MR. LOMBARDO: So, we need to elect a Vice Chairman then. Uh, I need a motion. Who would like to make a motion?

MR. HUMPHREVILLE: I'll make a motion that we nominate Commissioner Rowe for Vice Chairman.

MR. LOMBARDO? Any second? You don't? Then I will. I'll second. Okay. All those in favor?

MR. HUMPHREVILLE: Aye.

MR. LOMBARDO: Aye.

MS. STURGES: Aye.

MR. LOMBARDO. Okay. Very good. Thank you. That will solve our problem. Okay. Moving on.

## **PUBLIC HEARINGS:**

### **2. DEVELOPMENT CODE AMENDMENT, DCA 01-07 NATIVE PLANT ORDINANCE ENVIRONMENTAL ASSESSMENT, EA 02-10 AN ORDINANCE OF THE YUCCA VALLEY TOWN COUNCIL REPEALING AND REENACTING IN ITS ENTIRETY DIVISION 9 OF TITLE 8 OF THE SAN BERNARDINO COUNTY DEVELOPMENT CODE AS ADOPTED AND AMENDED BY THE TOWN OF YUCCA VALLEY.**

A Request that the Planning Commission discuss the proposed amendment to the Plant Protection and Management ordinance and forwards a recommendation for approval to the Town Council. And Staff Report?

MR. STUECKLE: Just very briefly, Mr. Chairman and members of the Commission, ah Staff is going to walk through a little bit longer than normal presentation. This presentation is going to outline, based upon the workshops that the Commission has been holding over the past several months, and I use the word "workshop" specifically because tonight is actually the Commission's first public hearing. Your first formal public hearing for taking public testimony, giving due consideration to that public testimony prior to taking the action. In this evening's presentation, Staff is going to briefly walk through with the Commission, based upon all of your workshops, what the ordinance says today and how the process would work. That will be the first part of the Staff's presentation. The second part of the Staff's presentation then is to go back a little bit in history on this topic and to identify and discuss many of the policy questions that are intertwined in regulated the Native Plant Ordinance. Um, this ordinance is what I typically refer to as a "community-based issue." It's a little bit different from some other planning type ordinances. Alright.

What does a community-based issue mean? It means there is no law that mandates that you have these regulations. But it also means it is a very important issue to many, many members of the community and for many, many different reasons. A great deal of passion has been expressed during the workshops throughout the course of both Planning Commission and Town Council dialogues, so I think it's very important as you go forward into this public hearing process for Staff to walk back through a little bit of the history and those underlying policy questions to ensure that the ordinance that you ultimately forward to the Town Council for consideration, whether that's tonight or at a subsequent public hearing, meets the desires and intent of the Planning Commission.

With that, I'd like to turn it over to Robert, he's going to walk you through the first section of the presentation. I think once we've walked through the first section, we should ask the Commission if there's any questions on the process or what the ordinance says, answer those questions, and then go into kind of the history, the underlying fundamental policy framework upon which the Commission has provided direction to pull this ordinance together.

ASSOCIATE PLANNER ROBERT KIRSCHMANN: Thank you, Commission. The requirements of the ordinance, the general requirements require an application to be submitted, which includes a plant survey, location to plants, proposed location of plants, size, health of the plants, the plants are to be tagged out in field. A sign is to be posted a minimum 30 days prior to the adoption period and a minimum 30 day adoption period um after that. However, the adoption period may be less if all plants have been adopted out.

For commercial/industrial/multi-family residential, 25% of the on-site landscaping shall be native. They may utilize either on-site plants or those obtained from other sources, such as nurseries. Projects in these areas with draft are anticipated to be graded from lot line to lot line, leaving in most cases no native plants in the original location. There are incentives built into the ordinance. The incentives are to encourage a higher percentage of native landscaping to be used, requires an education process, and the incentives are applicable if a project provides 35% or more native landscaping. If they provide 35% or more, they are entitled to a 10% reduction in standards. The reduction standards would be for front, rear, side, street side setbacks, lot coverage, and parking not to include handicap spaces.

For residential subdivision, there is no requirement in the ordinance for on-site landscaping to be native. Projects with lots under 2.49 acres are anticipated under this ordinance to be graded from lot line to lot line, leaving little or no native plants in the original location. Ah, in these cases, incentives are in place to encourage the developer to leave native plants in their locations, which we'll get into the chart in a few moments. Projects with lots ranging from 2-1/2 acres to 5 acres are required to provide a minimum of 5% undisturbed area and projects with 5+ acres are, projects with lots of 5+ acres are required to provide a minimum of 10% undisturbed area. Excuse me.

Again, the incentives are to encourage more additional undisturbed areas. It requires an education process. If the project exceeds the minimum undisturbed area by 10%, a 10% reduction in standards again can be granted. These incentives include lot size, front side, street side setbacks, lot dimensions, and lot coverage. Single family residential in-fill and existing single family homes, there is no requirement for on-site landscaping to be native. Native plant application materials include a plot plan showing the locations of native plants and photographs of the native plant. There is no requirement to adopt out affected plants. Lots under 2.49 acres, again under this ordinance, are anticipated to grade lot line to lot line, leaving little to no native plants in the original location. Projects with lots ranging from 2.5 to 5 acres are required to provide 5% undisturbed area, and projects of 5+ acres are required a minimum of 10%. Again, the incentives are to encourage the additional undisturbed area and then if the project exceeds 10% by 10%, they can receive the front side, street side setbacks, lot dimensions, and lot coverage for reductions. That concludes the portion on the ordinance. Ah, if Staff, er, I'm sorry, if Planning Commission has any questions of Staff, we'd be happy to answer them at this point before we get to the policy.

MR. LOMBARDO: Go ahead.

MS. STURGES: Ah, yes, we touched on this but I don't believe that it was spelled out. Um, what exactly is a description of "undisturbed lands"? At one time I had asked that if it was an undevelopable piece of property, such as a hillside, and I believe ah Mr. Stueckle said that it would be up to the Commission to determine ah a description of the undisturbed lands, and also too on incentives, it's, it's vague. Ah, how much does a person have to do to get one of the incentives or they, do they just take one class and they get all the incentives? That's very vague and I think that needs to be spelled out a little bit. Um, like I say, we didn't - -

MR. LOMBARDO: Do you want to spell out in detail what the educational requirement is because you feel that part is vague?

MS. STURGES: Right, it's vague, and then also if they just take one class and they get all the incentives? Or do they take, do they just take the class and get one incentive or, you know, or two incentives?

MR. LOMBARDO: Am, am I right in assuming that the incentive is a one thing, basically you have to be 10% over the 10% native ah undisturbed area to get the incentive in the first place but there is only one incentive? If you're over 10% over the 10%, can you get any one of those lot - -

MR. KIRSCHMANN: The ordinance is not specific, if someone came in they could in theory receive all the incentives that are spelled out?

*(SEVERAL PEOPLE SPEAKING AT THE SAME TIME, CANNOT HEAR ANY ONE OF THEM CLEARLY)*

MR. HUMPHREVILLE: They have to have the 10% over the required and they have to do the education that – was as written – so - -

MR. LOMBARDO: And the education, they have to do both the ten and the education - -

MR. HUMPHREVILLE: That is correct.

MR. LOMBARDO: Okay. Then I'm understanding. Um, do we need to clarify what the education is? What's - ah do we do we need to spell out - -

MS. STURGES: I think it was an education class that Robin Kobaly was going to provide.

MR. LOMBARDO: That is correct – or something like that.

MR. STUECKLE: If I may, going back to the specific questions posed by the Commission. At this point, there is no definition of "disturbance" or "no disturbance" um. How Staff interprets the use of an undisturbed area today is exactly that. The Commission, on prior land development projects, has seen lines demarcating no disturbance zones, and what that means is you can't go in and grade, you can't go in and build structures, this area is to remain in it's natural condition. Um, and so that may be something that the Commission wants to consider adding into the ordinance, is a definition of "disturbance" or "undisturbed area." Um, and then, same thing on the vagueness of incentives, the Commission – neither Commission or Staff have discussed in detail what components would be included in an educational program. It is anticipated that that educational program is going to address ah proper transplanting techniques, as well as post-transplanting care and maintenance. Ah --

MR. LOMBARDO: We need to spell that out.

MR. STUECKLE: -- of those. Again, that's not spelled out in the ordinance um and it's certainly up to the Commission as to whether you feel it's appropriate for some level of description or identification of that educational program to be included in the Code. Totally at Commission's discretion.

MS. ROWE: Just to offer a little bit – stamped page 100 Commissioner Sturges refers to some of the questions and I had asked last time about clarification on – excuse me – on incentives. Third paragraph up from the bottom, Staff clarified that the additional 10% – if that was met the project is allowed all the deviations included in Table 2. I think we could all discuss this and if Staff had presented that, just to point out where it was in our previous Minutes and I know Staff also clarified, further up on that page, it would be the one, two, three, four, fifth paragraph down, which Mr. Stueckle replied of additional language, it says to obtain the incentives available to the

different zoning districts, not only do you have to meet the standards, but you also have to go through an additional education process, that would be mandatory for the incentives?

MS STURGES: Right. Okay. So this is what Staff has proposed to us. Staff told us that they would get um all the deviations, all the incentives - -

MS ROWE: Correct.

MS. STURGES: -- and Staff told us that they would ah go through the class, education class process, I'm saying it was vague and it wasn't really spelled out, and I was asking perhaps maybe Staff can also tell us what they want to do on the education portion.

MR. STUECKLE: If I may just clarify for a minute. I think, as reflected in the Minutes, Staff was communicating what the ordinance says, and that ordinance has been drafted and the language has been pulled together based upon Planning Commission direction, and so that is Staff's understanding of the language that the Commission had desired in order to create the incentives. One of kind of the different approaches that is coming or resulting through this, through the Commission's workshop process is this ordinance is becoming a little bit more along the lines of education and encouragement, than one of regulatory standards. Um, so I think that's something as the Commission is walking through the policy questions this evening that you'll have the opportunity to revisit. Um, but again, the incentive portion, as discussed at the prior meeting, um, identifies what standard must be met in terms of the physical development of the land, as well as the educational component, albeit the educational component is undefined.

MR. LOMBARDO: Okay. I'd like to see language in the educational component that deals with proper transplanting, care, post-care - -

MS ROWE: Do you – may I just offer a little bit of insight, I know that as we spoke with Robin Kobaly about things, as we grow and learn more about the plants, the process may evolve and change and become more elaborate. If we have specific writing as to the mandate of education, it may not be enough in the future, we may require more education.

MR. LOMBARDO: But you can always put one of those catch phrases “and other educational materials as deemed necessary.”

MS. ROWE: I think the more we learn, the more we're going to figure out how to manage them appropriately, so --

MS. STURGES: So going back to stamped page 52, on Table 9, for example, I'm just pulling this out of the air, Table 10, the wording in the draft in the ordinance, I'm not talking about the Minutes, because the Minutes, you know, it was clarified, but I'm pointing out the fact that in the ordinance itself, it does not state, it says the deviations include the following, but it doesn't say um, you know, that they are entitled to all the deviations, or one deviation, or, you know, is it, the discretion of the desk, so that's all I'm saying. If we're going to have it spelled out, that this person is entitled to receive all these deviations based on the amount of undisturbed area, then I think it should be spelled out in the, in the ordinance.

MR. HUMPHREVILLE: The consensus on the Commission was that Robin Kobaly from the SummerTree Institute was going to put together an information packet and some sort of an education plan or class, and we agreed that that would be something that they would have to go through. The undisturbed property would definitely mean un-graded, but we need to make sure

that plants can be transplanted into that. In other words, Joshua Trees or whatever, so we can't say it can be completely untouched, it needs to be un-graded but that Joshua Trees and such can be planted in those, otherwise we'll --

MS. STURGES: Yeah, we need a definition of "undisturbed."

MR. HUMPHREVILLE: -- taken away their authority.

MS. STURGES: Now if you would go to page 52, Commissioner?

MR. HUMPHREVILLE: Yes, I did.

MS. STURGES: Okay. Would you point out to me then on the Tables 8 and 9 or 10 where it states that the applicant is eligible for all these deviations, because that's my point that I brought up, that it's vague as to whether or not they would receive one or all of them.

MR. LOMBARDO: Do you have preference, one or all? I see no problem in having all. I see more incentive to have them leave more undisturbed land.

MR. HUMPHREVILLE: Correct. That's what the incentives are for.

MR. LOMBARDO: Does it bother you in any way that they're able to have only one, or?

MS ROWE: No, I think Commissioner Sturges is correct. If we're going to-- the purpose and intent is to clarify the ordinance - -

MR. LOMBARDO: Let's clarify it.

MS. STURGES: Let's clarify it.

MR. LOMBARDO: So say "all." Are we in consensus on that?

MS. STURGES: Yes, it's clarifying.

MR. LOMBARDO: Alright, it's a consensus.

MS. STURGES: And now that you brought up undisturbed area, I would like to have that clarified. Not right now, but we can come back to Commissioner Humphreville's - -

MR. HUMPHREVILLE: He asked in an un-graded area is undisturbed but we can't restrict them from putting trees I would - -

MR. LOMBARDO: Using it as a place where transplanted plants are able to be placed - -

MR. HUMPHREVILLE: Of course. Otherwise we're --

MR. LOMBARDO: -- without calling it "disturbed."

MR. HUMPHREVILLE: So undisturbed would be un-graded but not that they can't go in and plant trees into that -- or plants I should --

MR. LOMBARDO: Is there a way that we can word that that's clear? That you would agree with?

MS. STURGES: That's a good point.

MR. LOMBARDO: Okay, so our intent is to have the undisturbed land un-graded, but still able to be used for planting of transplantable plant materials. Make sense? Is there a way to clarify that in the verbiage?

MR. STUECKLE: I think what we should do is, is the Commission walks through this process this evening, both in terms of your questions, and direction to Staff this evening, at this point, as well as following the public hearing. Then, based upon how long that list is, Staff may recommend that you actually continue the public hearing, come back at your next meeting so Staff can bring back the revised language.

MR. LOMBARDO: Okay. Very good.

MS. STURGES: Thank you.

MR. LOMBARDO: Okay. We're ready to move forward.

MR. KIRSCHMANN: During this process there have been several workshops which have been held and many policy questions that have been raised so we're going to go through the list of many of the policy questions and some of the discussions or answers, a lot of them are redundant, I will try not to continually repeat. One of the questions was what native plants should be regulated. This has been discussed probably almost every meeting that has been held, the list has been added to, taken away from, added to. At the last Planning Commission meeting the SummerTree Institute, Robin Kobaly, provided a list of native plants and the consensus at that meeting was that all the plants on that list should be included. Those plants should have been included in this draft ordinance, so I believe that is squared away. One of the other policy questions: Should grading, including mass grading, be limited to project native vegetation? Again  
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MS. STURGES: Protect.

MR. KIRSCHMANN: I'm sorry?

MS STURGES: Protect native.

MR. KIRSCHMANN: Thank you. Limited to protect native vegetation. Again, discussed in multiple meetings, at the 9/22/09 and the 10/13/09, consensus was to commercial/industrial and multi-family and then subdivisions and in-fill of lots up to 2.49 acres under the current draft would likely grade from lot line to lot line. Ah subdivisions and in-fill of 2.49 acres to 5 acres will leave 5% undisturbed, and 5 acres plus will leave 10%.

MR. STUECKLE: A couple things if I may interject at this point. If at any time as we're walking through these policy issues and there are questions of the Commission as to if that was the action taken, please clarify. This is the Commission's ordinance, and it's important that there's a comfort level on these major framework policy issues for the Commissioners before you take action for the recommendation up to the Town Council.

The second item I want to comment on is that you're going to see and hear Staff comments – see written comments in the ordinance possibly or hear Staff comments this evening about anticipated to grade property line to property line. And I want to talk about that a little bit, because I think it's important. Um, you saw in Robert's presentation early on the discussion of commercial/industrial and multi-family parcels, and I'd like to take the Commission back to their discussions and dialogue as this ordinance was being created and the understanding that was established that, between commercial and industrial buildings, as well as multi-family projects, between the size of the structure, parking requirements, flood control improvements, and those types of things that, and from a history of the projects that the Commission has seen and how difficult it is for design engineers with the physical constraints that occur within this community to have projects that fit. I think it's important to establish an understanding in the community through this public hearing process that along the commercial highway, the commercial corridor, our industrial areas and our high density, multi-family residential areas, that this ordinance does not preclude the removal of native vegetation from lot line to lot line. It's not saying that that will occur; it's not saying that that's going to happen in every circumstance. Those points are important because one of the issues that brought this up historically were those passionate community concerns about what was viewed as indiscriminate removal of native plants. So, I think it's very important in this public process that this is at least laid out on the table and explained that, as the ordinance is currently written, that there is no limitation, there is no language within this ordinance that precludes these particular projects from removing natural vegetation from its existing location between all property lines.

MR. LOMBARDO: Just to clarify: we came to that conclusion based on all the other requirements that are necessary on a lot that size. There was no practical way to do anything else.

MR. STUECKLE: I think that would be Staff's understanding of the – how the commission arrived --

MR. LOMBARDO: It would absolutely stop any development at all because of the size of the lot it required, by the time you did drainage and all the other things, it was a problem. Okay.

MS. STURGES: And also too I recall, even though the conversation was originally deleted from the Minutes, we had a conversation regarding a perimeter around the subdivision so that within the subdivision itself they could do the grading that they needed to do, but on the outside we talked about a buffer, a perimeter buffer of 30 to 40 feet around the subdivision where the lands stay the same and would be undisturbed.

MR. LOMBARDO: I think that's where this idea of incentives came in and that was what overrode that is that we've now given incentives so that we're encouraging them to use buffers as a way of garnering more use of their land, even though they're going to have to go lot line to lot line in the subdivision area, they will gain a benefit by leaving a buffer in certain areas.

MR. HUMPHREVILLE: Well, we're not talking about residential right now, we're talking about commercial, and so that doesn't apply to that.

MS. STURGES: Yeah, multi-family subdivisions is what we're talking about right now. We're talking about subdivisions.

MS ROWE: I thought we were talking about the commercial corridor?

MR. STUECKLE: Commercial/industrial and multi or high density multi-family - -

MS. ROWE: Right.

MR. STUECKLE: - - many of which are not, typically not, ah, typically not subdivided. Those occur as conditional use permit or site plan review on one is considered parcel. But again, I think the important part is this is the Commission's first public hearing. It's truly our first formal opportunity to debate these policy questions as the Commission before you forward that recommendation to the Town Council, so the questions, policy questions raised by Commissioner Sturges are ones that, and we'll try and keep a running list here this evening, that individual commissioners would probably like to bring up for further Planning Commission discussion before you take your final action.

MR. LOMBARDO: Okay.

MR. KIRSCHMANN: What requirements for preservation, transplanted and destruction should be included. Again, discussed over multiple meetings, including the September 22<sup>nd</sup> '09, a 10/13/09, what minimum lot size, if any, should these regulations apply to. At the 10/13/09 meeting, thresholds were set for the commercial/industrial/multi-family, the discussion was 25% of the landscaping would be native, and then getting into the residential, the tables we have discussed before, 0 to 2.49 acres, 2.5 to 5 acres 5%, and the 5 acres plus, 10%.

Should a maximum building footprint be implemented to protect native vegetation? No footprint was selected, but at the 9/22/09 and the 10/13/09 meetings, discussion again for the commercial/industrial/multi-family and then the in-fill lots under 2.49 acres under the current draft would all likely, would likely with the improvements have to remove plants from lot line to lot line. But that subdivisions and in-fill with lots up to 2.49 ah up sorry 2.5 to 5 acres will leave 5% undisturbed and 10% for 5 acres plus.

What amounts, if any, of native vegetation or protected plants should be required to be preserved or transplanted on-site for new development? Commercial/industrial/multi-family is 25%, subdivisions and in-fill lots the same table that we have mentioned earlier.

MR. STUECKLE: Can you please go back and clarify the - this does not necessarily require those that are removed from their original location?

MR. KIRSCHMANN: Sure. And as mentioned before, the 25% of the landscape materials does not have to come from that project site, they could be obtained from nurseries or other sources. Should the protected plants be considered during the design process? Again, discussed at multiple meetings, the 10/13/09 discussion, commercial/industrial/ multi-family subdivisions up to 2.49 acres and in-fill under the current draft would, in all likelihood, have to grade lot to lot.

MS. STURGES: Excuse me. Would you go back to that question?

MR. KIRSCHMANN: Sure.

MS STURGES: So did we answer it as a Commission? That it should be considered in the development stage, is that - - ?

MR. LOMBARDO: We discussed it and it was by consensus that there was no reasonable way to require them to keep native plants on the property because of the requirements of drainage, all the other requirements for lot size, parking and curbs and gutters, that sort of thing.

MS. STURGES: Yeah, but the question is: Should protected plants be considered during the design process?

MR. LOMBARDO: Not for commercial/industrial/multi-family subdivision in-fill under 2.49 because the lot size precludes them from doing almost everything. Now, if they can save it, wonderful, and there's incentives involved for them to do so. But, they're not required to.

MS. STURGES: It's not mandated, it just says should they be considered. I think they should be considered. Should be considered during the design process.

MR. HUMPHREVILLE: That's up to the applicant. He can choose to design around anything, but he can also has the right to develop the whole piece of property.

MR. LOMBARDO: I think the idea was not that we're going to force them to design around trees, although it is always an option for them, you bet, if you have a piece of land and you want to save a particular tree, you go at it. For the most part, these are commercial properties or multi-family type situation where they're going to need to grade in such a manner that there won't be --

MR. HUMPHREVILLE: In order to get parking--

MR. LOMBARDO: to make special allowances for it if they are so inclined, but they still have to meet the other requirements, drainage and setbacks and all those other things which are included in the kind of small lot.

MS. STURGES: I'm bringing this up because it appears to me, and I'm not the expert on it, but it seems to me that Sonic Burger is doing just that. They have some trees in place and they're grading around it.

MR. LOMBARDO: That's awesome! Let's all be happy for it.

MS. STURGES: I think it's great that it's considered. (*inaudible*) to be considered.

MR. LOMBARDO: Okay. Go ahead. I don't see how you work that into the ordinance, but I guess we could put some sort of line that we want you to -- but we've said that in the intent, it - -

MR. HUMPHREVILLE: It is in there, intent and purpose and it's almost out of the question on commercial that small. That's why we did what we did.

MR. KIRSCHMANN: Tied into this issue and it's mentioned in Staff report and later in the Power Point presentation, but we've kind of come to this question. It's been discussed at several meetings by the Planning Commission and so Staff wanted to get clarification: does the Planning Commission want to see the Native Plant applications for commercial/industrial/multi-family and subdivision projects? So that's up for discussion.

MR. STUECKLE: In other words, in going back several meetings to the Commission when you had, began to, begun to broke down, break down your discussions between the varying land use districts, one of the policy questions was does the Planning Commission want to see the Native Plant Plan when you see the rest of the application, so when you're approving the Conditional Use Permit, when you're approving the subdivision, those types of things. In one area I believe the Commission -- and I don't recall specifically which they were -- one member of the Commission

said yes, in another area the Commission said no. And that's normal. This wouldn't work on an ordinance that goes through all the – every land use district within the town, all 39 square miles, it can be difficult to make all of the pieces fit together, so not that the Commission has to answer at this moment, but one that we'll revisit a little bit later in Robert's presentation is, do you want, does the commission desire to see the native plant inventory and the Native Plant Plan, which would identify what is proposed to be incorporated back on site, what is proposed to be adopted, what is proposed to be destroyed, as a part of the overall application during your normal hearing process.

MS. STURGES: I believe, um, the consensus of time, was yes, except that we would not require that on the smaller projects, the single family in-fill, so perhaps you can go back to check on that.

MR. LOMBARDO: I was under the impression that commercial too because –

MR. STUECKLE: I think from Staff, Staff's review, we were not 100% sure what your desire was, and that's why we wanted to ensure that the issue, the policy question was before you this evening.

MS. STURGES: *(people talking over one another)* inventory anyway to tell us where they're going to go.

MR. HUMPHREVILLE: That's why we made the ordinance so clear and concise, especially on the commercial but mandate if they have 25%, the Staff should be in most cases able to say there's 25% of that without us having to look at every project.

MR. LOMBARDO: Yeah, it reduces cost by simplifying it. They have to save 25% of the vegetation that's going to be used in their landscape design, regardless of what's there to begin with. They have to grade lot line to lot line- -

MR. HUMPHREVILLE: And if there's some out of the ordinary circumstance where that can't be done or something then they could come to the Commission, but that's why we're making the ordinance, so it's clear to everybody.

MR. LOMBARDO: -- simple as possible the way we do it.

MS. ROWE: Commissioner Humphreville, are you opposed to seeing that for new residential subdivisions then?

MR. HUMPHREVILLE: No, that's completely different.

MS. ROWE: Okay. So is it possible for the Commission to separate out, like have in-fill and single family be also combined with commercial/industrial/ multi-family and then require that to be brought to the Planning Commission for all residential subdivisions?

MR. LOMBARDO: Yeah, absolutely.

MS. ROWE: I think that is the general – in our previous public hearings and I think as a Commission, our general consensus is we do not want – yeah I think that the Tracts are of concern to everyone in the community, and the more review, the better that process is.

MR. STUECKLE: OK

MR. LOMBARDO: Do we all agree on that?

MR. HUMPHREVILLE: Yes

MS. STURGES: Umhum.

MS. ROWE: Yes.

MR. LOMBARDO: But please include some kind of language on that.

MR. KIRSCHMANN: Can you please clarify – excuse me – clarify, is it just the subdivisions that the Commission wishes to see, or would they also like to include commercial/industrial and multi-family?

MS. ROWE: No.

MR. STUECKLE: Residential subdivisions.

MS. ROWE: Residential subdivisions.

MR. LOMBARDO: We understand the concerns on commercial and industrial are going to be such that the landscape plan will be sufficient when that's already determined, that's already half the process to be approved (*inaudible*).

MR. STUECKLE: Thank you for that clarification.

MS. ROWE: Mmm hmm.

MS. STURGES: Thank you.

MS. ROWE: Okay.

MR. LOMBARDO: Okay. Continue on.

MR. KIRSCHMANN: What types of inspections and/or permits should be required for the removal, transplanted or destruction of protected plants, and what are the requirements of these inspections and/or permits? Um, discussed multiple meetings, the ordinance has been drafted based on those discussions, a Native Plant Permit is required unless it is exempted under the ordinance, um at the various meetings, Commission Council has provided a list of requirements that are to be submitted with the application, that's contained within the ordinance, an inspection by Staff, verify location of plants and fill to match those on application.

Ah, should commercial or industrial development be subject to separate regulations and what differences should be addressed? Commercial/industrial and multi-family residential were pulled together because the expectation of the needs to under the ordinance to remove the plants from lot line to lot line in order to facilitate the improvements of the project. These type of projects also typically require the same applications, whether it's a conditional use permit or a site plan review.

Um, is it appropriate for local government to regulate and monitor the financial responsibilities related to the transplanting regulating native plants of either a developer or adopter of regulated desert native plants? Again, this has been the subject of numerous discussions. Commission and

Council have evaluated the issues and attempted to craft the ordinance in an attempt to provide a balance between them.

What are the implications of this ordinance on current and/or projected levels of staff? With the draft ordinance it is not anticipated to impact Staff time that much more than the current one.

How does the construction of this ordinance affect development rights to properties having the same land use districts that may be laden with regulated native plants and yet a different property having the same zoning designation may be void of regulated native plants? Ah, the ordinance was set up as fair and equitable as possible with commercial/industrial/multi-family being required 25% native landscaping, regardless of whether they come from on-site or outside sources. The undisturbed percentages still apply to lots above the 2.5 acres.

Is there a distinction between in-fill lots of 18,000 square feet or less and a tentative tract map or tentative parcel map specific plan development providing lots with sizes of 18,000 square feet or less? As a result of multiple discussions, the ordinance is set up with subdivisions separated out from single family in-fill and single family residences. At some point in time they were all lumped together. They were actually lumped together with commercial um and I believe it was at the 10/13 meeting where the Commission decided that it should be separated out and that's how the ordinance was then structured.

MR. STUECKLE: And I just want to touch briefly because the issue that Robert is talking about in the last few paragraphs are the questions of equity, and there is always some fundamental questions that we want to ask ourselves when we are looking at regulations. In some of the earlier drafts of the ordinance, going back some amount of time, there – one of Staff's concerns was that there were coming out of that process, albeit not completed, but there were different regulations being created for let's say an RS2 subdivision versus an existing RS2 single family residential structure versus an in-fill single family residential structure. One of the underpinnings we do try and achieve through your zoning ordinances is equity, or the application of the same standards within the same zoning district. So I think the Commission has been, has made substantial progress in this draft in terms of the underlying equity question of the standards that are applied and that the incentives that are available and the standardization of the lot sizes and those standards incentives between your different land use districts.

MR. KIRSCHMANN: Are residents or property owners that express concerns about child safety, allergies, other considerations or just do not desire regulated plants on their property represented within the provisions of the proposed ordinance, and should they be? Ah, in single family residences and in-fill, the ordinance allows for removal for a wide range of uses, including pools, swing sets, child play areas, vehicle parking, and so this could provide, will provide for safe play areas. There were no discussions on or other considerations for the allergies or I think that was the main one was the allergies, so there is no language in the current draft for that.

Is there rationale to provide an exemption for the transplantation of regulated desert native plants on the same lot and/or within the town's corporate limits? And to extend this discussion, should Council or Planning Commission be approving, be the approving authority if regulated plants proposed to be relocated outside the Town boundary. Permit is required to transplant plants, whether it be on-site or off-site. The preference from the Commission Council is to relocate the plants within town first, then within areas outside and I believe it was made very clear not to areas where the trees won't grow, such as the low desert.

MR. STUECKLE: I apologize for that. Is that included in the code? Um, I think we need to check on that issue - -

MS. STURGES: I agree.

MR. STUECKLE: -- and make sure there's language in the current draft addressing those last two bullet points that Robert identified.

MR. HUMPHREVILLE: During discussion it was brought up that the plants should be – that we discussed on several times that it should be - if possible, if there was somebody that wanted to adopt the plants inside the town, they would be given first preference and then instead of destroying the plants, they could be given outside the area within the Morongo Basin.

MR. LOMBARDO: We talked about that.

MR. HUMPHREVILLE: That was the discussion.

MS. STURGES: Yes, but they're not going to survive if you send them down to Desert Hot Springs.

MR. HUMPHREVILLE: Well, that's not entirely true. Uh, I gave plants to the Living Desert down in the low desert, well before this, the Native Plant Ordinance was ever in place, and they several times contacted me and thanked me and told me what they did, so that's – there may be some plants – but that's not entirely true of all of them.

MR. LOMBARDO: If they know what they're doing I guess you can get it done, but –

*(two men speaking over each other)*

MR. HUMPHREVILLE: It was a preference they go to anybody that wanted them in their town first, and then from there they could go to outlying areas.

MS. ROWE: I think one of the discussions too was that the entire basin should – town first and then the basin second, because of like Pioneertown where the fire was brought up, the transplanted there would be beneficial to residents, erosion control and other things, as long as they were deemed survivable.

MS. STURGES: And I really – I'm glad to hear that they survived at the Living Desert because I had never heard that before, that they would survive down below. As long as we have a list of where our plants are going, then we can follow up on it and see you know um where they ended up.

MR. KIRSCHMANN: This draft does not require – the annual report that is required of this ordinance at the last meeting was, ah it was determined that the report would only include plans that were being relocated back on site.

MS. STURGES: I'm not referring to an annual report, I'm referring to a report of how many plants there are, how many are going to survive, and where do they go. Not the annual report. I agree with you on that.

MR. LOMBARDO: Alright.

MR. KIRSCHMANN: Are there checks and balances in place for Staff to make sound, objective determinations? The ordinance provides clear standards. If an unusual circumstance should arise, the issue could always be brought forward to the Planning Commission.

Should a regulated Native Plant Survey be prepared by native plant – should a regulated Native Plant Survey prepared by a native plant expert be required? Ah, 4/21/09, it was determined that a survey should not be required – should be required but a native plant expert is not.

Should all regulated native plants that were determined to be likely to survive transplant procedures be required to be transplanted, either on-site or off-site? Consensus was not all, but to try to save as many as possible.

Under commercial/industrial/multi-family, native plant experts have indicated transplanting more than one significantly decreases the survival rates of many regulated native plants. Based upon this testimony, should the ordinance require transplant a second time back into the development project in order to retain community character as part of the landscaping plan, or should transplant be limited to a single relocation and therefore occur off-site? The plants are going to be placed back into the landscaping on these types of projects and a minimum of 25% they do not have to come specifically from this project, but the landscaping will be native.

Should the ordinance require supervision and monitoring of the transplant process by a native plant expert? 4/21 the consensus was “no.”

MS. STURGES: Excuse me, I'd like to make a comment regarding that 4/21/09 consensus.

MR. KIRSCHMANN: Um-hmm.

MS. STURGES: At that particular time, everybody was under the impression there was only one native plant expert, and therefore we did not want to bog down any builders, especially when we start to gear up again, so that was the impression. All the answers to the question was based on the fact that there was only one native plant expert. If in fact the native plant experts were 35 or 50, I believe the consensus would have been different, requiring a native plant expert, and I remember Commissioner Lombardo using the word “log jam,” he didn't want to have a log jam because he only had one expert, so I just want to make that comment regarding that 4/21/09 consensus. Thank you.

MR LOMBARDO: *We can amend the ordinance* in the future

MR. HUMPHREVILLE: When there's 50 native plant experts in the future that could be brought in a minute, I'm sure. Right now there's – it's not one, there's a few, but very few.

MS. ROWE: In that same discussion I believe I also remember that we were presented things that there were conflicts, even between the native plant experts - -

MR. HUMPHREVILLE: That is correct.

MS. ROWE: -- and that that was a concern, that there was not an industry standard where they all agreed. So that there was more than one.

MR. HUMPHREVILLE: That was brought to us by Robin Kobaly.

MS. STURGES: Right. My feeling is that if we do not have somebody with the training or the knowledge to supervise and monitor the transplanting process, then we should just start issuing chain saws and just chop 'em all down, because we won't increase the survivability, and I believe that it's the one thing that we need is supervision. And you were asking about the native plant experts, you know, I believe in general planting it's called an arborist, whatever that is, an arborist? Am I correct, in the general plan, it's a plant specialist?

AUDIENCE: Yes.

MS. STURGES: So how can we enact something like this that goes against the general plan, which is our constitution? And this is what we are doing if we let this go through without any supervision, then we are violating the general plan.

MS. ROWE: Shane, originally we had taken direction from the Council and it was, I believe, at least 4-1, if not 5-0, that they all agreed in the matrix that we were given, for the survey but not a native plant expert should be required and that is where we started our discussion is from guidance given from Council on that.

MR. STUECKLE: That was a question at the Joint Planning Commission Town Council meetings. I cannot recall the specific ah numeration of the direction that came from that meeting, but there were diverging opinions amongst the Town Council members, as well as I'm sure when you'll hear in the public testimony this evening, divergent views on that as well.

MR. HUMPHREVILLE: But the minutes – I went back and read the minutes from both of those, and they was clearly a consensus from the Council to the Commission that that be the case.

MS. STURGES: I, I disagree. Councilman Neeb said point blank that he is very happy with the existing plant ordinance. He doesn't want to see it changed except to tighten up the loopholes. Now in the existing plant ordinance we require supervision and monitoring of the transplanting process by native plant experts.

MR. HUMPHREVILLE: That is not true.

MS. ROWE: Can I refer you to stamped page 159, one-third of the way down, it – that – that entire stamped page. Um, I'm sorry, it's the second paragraph, it says Neeb, if to get to an end and to get going to save plants in some shape or form, you'd have to know what is there. Whether a lay person or an expert is the question. This is, again, Councilman Neeb. No, does not need to be an expert, he said. A lay person could be trained to know what those plants are.

MS. STURGES: Just – so – it has to be somebody that's trained. Okay, now we're getting into the specifics of whatever native plant expert or designee. Native plant expert or trainee. Somebody that has the knowledge. Otherwise, you're going to have people going into a particular backyard or whatever it is they want to do, they're going to get a backhoe and they're going to dig out a plant and they're going to stick it over at another place and without the advice or the consulting of a native plant expert. And maybe the native plant expert will say, 'You know what? This soil is too hard for use of a spade, we can't use a spade here.' How – how are we going to increase the survivability of these native plants without an expert? At least having an expert saying yes you do it this way or no you don't do it that way. Um - -

MR. LOMBARDO: I don't think that the problem is whether an expert is used or not, it's whether it's required to use.

MR. HUMPHREVILLE: Correct.

MR. LOMBARDO: And I think that's what we, as a Commission when it was brought up in the discussion, that was where we had the problem, that we required. We thought it was a great idea, we thought education on the plant things was important, and we still do, but I don't think the requirement for an expert was what we determined to be necessary. If it works better, people that are interested in saving the plants will use an expert if they're affordable in their circumstance. We're not requiring that they do it in single family in-fill because the cost of doing this kind of thing would be prohibitive for somebody – little mom and pop that wants to have a little house. They have to get a native plant expert to move all the trees when they built their house? It's not practical.

MS. STURGES: So, Commissioner - -

MR. LOMBARDO: When it's done on a level, whether it be in a subdivision or something, maybe it can be done.

MR. HUMPHREVILLE: Shane, am I wrong - -

MR. LOMBARDO: It can't be required of everybody. It can't be.

MS. STURGES: Thank you ...

MR. HUMPHREVILLE: There is no requirement right now requiring a native plant expert.

MR. KIRSCHMANN: No, the current order says not required native plant expert as drafted.

MR. LOMBARDO: And we didn't want to require it.

MR. HUMPHREVILLE: Right.

MR. LOMBARDO: I think it's great to have consultation – consult by one or input or help in every way.

MS. ROWE: Commissioner Sturges, just to clarify on stamped page 159, right above the words "question 2," almost half way, a little bit beyond half way, the general consensus it says a survey is not needed – a survey is needed and not an expert was the consensus at the time. To clarify from Staff's recollections. 159, right above question 2.

MS. STURGES: Above question 2, okay. Survey needed, not an expert. Consensus. Okay. Well, I'll have to go back and listen to the audio on that, because I – I do know that it was a question of what is a native plant expert and I do believe at that time, Mayor Leone was in favor of the best chances for the survivability of the plants. So it was – it wasn't an easy thing.

MR. LOMBARDO: (*inaudible*) best survivability of the plants. I just - we've got to be careful what we require and (*inaudible*) mandate.

MR. HUMPHREVILLE: There's a whole issue all in itself and the fact that this thing has gone on for four years and so many meetings, it's impossible to keep track of. We've tried to balance an ordinance to make it balanced for both sides, and it needs to get done.

MR. LOMBARDO: Yeah, I think we need to move forward with it.

MS. STURGES: One thing to keep in mind, if you're in a hurry to rush through this, um, it has been a long process and we have not been privy to some of the original data that was compiled by Hogle Ireland, I called them today and apparently they have submitted a draft ordinance for grading and the plant ordinance, because originally this plant ordinance was supposed to go through the process with the grading hand in hand, so ah Staff has taken us through various directions and have done a lot of work on this. I'm not taking anything away from that. But I do think that we have to stick to policy, and forget about what everybody feels and how passionate they are or not passionate, because there is passion involved, but what is the policy, and I think we have to use our general plan because it is our constitution and this particular this particular ordinance ah really violates the general plan and because we we're taking an ordinance that was supposed to just close one loophole, and in my opinion, we're gutting it to try to simplify it and I don't think that's right. I think it's a violation of the general plan.

MR. HUMPHREVILLE: The direction from Council, again, was to make a simple, clear, concise, easy to understand, easy to read ordinance that anybody could come in and understand that was trying to do a development, whether it was a single family in-fill or commercial project or a tract and that's what this accomplishes.

MS. ROWE: And I have to admit that I'm very confused, Commissioner Sturges, because the last meeting that we had, we were all in general consensus to include you, that there was wording that was not comfortable with you, we changed all of that, at the end of that meeting we had a unanimous consensus that that ordinance represented everything that we asked Staff to provide us with. I'm not sure what's happened between that meeting and tonight.

MS. STURGES: Are you talking about the plant ordinance? Or the development code that we worked on?

MS ROWE: The plant ordinance.

MR. STUECKLE: Staff is sure that there's going to be public testimony on the native plant expert issue, and I will encourage the Commission, we've written that down on the list for you to revisit before the conclusion of your meeting this evening, depending on how late we go through public testimony, and Robert if you're ready to continue through the topics.

MR. KIRSCHMANN: Should the ordinance require an annual report on health, survival rate of transplant regulated plants, and for what period of time. The ordinance does require one annual report. It is for the first year and it is for the plants that are located back on-site completed by an applicant and not a native plant expert.

Should the ordinance require a maintenance program by a native plant expert and for what period of time? There was some confusion earlier on as far as what is a maintenance plan? What is an annual report? Ah, for clarification purposes a maintenance plan is basically how the trees are going to be nurseried on site or stockpiled, how they're going to be staked, trap fencing that will be used, watering methods, those kinds of items. And so it was determined that ah the for the

maintenance plan no native plant expert would be required and I actually put in here annual report, but that was for the last one. Again, completed by the applicant, not a native plant expert.

Should the ordinance require that the regulated native plant survey permit application be reviewed by the Planning Commission as a segment of the approval process? We'll be discussing this later this evening.

When transplanting off-site is proposed, should the ordinance require transplanting within town only, or should the ordinance allow both in and out of town? Been discussed, many meetings including this evening, um Staff understands the transplant should not be limited to town boundaries but preference should be given to town boundaries first and then adopted out to areas where they are likely to survive – Morongo Basin.

When there are regulated native plants on site that cannot, based upon a Native Plant Expert Survey, which in the current draft we will not have a Native Plant Expert Survey, it will be completed by the applicant, be transplanted or will not be likely to survive the transplant process should design of the project protect those plants in place? Ah, consensus that this cannot be accomplished on commercial/industrial/multi-family projects.

Should the – this is for in-fill residential and residential subdivisions. Should the ordinance establish separate standards for in-full residential development based upon lot size? Um, the ordinance is set up by standards for lots and we discussed that before with lots 0-2.49, 3.50-5 and 5+.

Should a regulated Native Plant Survey be prepared by prepared by a native plant expert be required? Consensus was a native plant expert is not required.

Um, should all regulated native plants that were determined to be likely to survive transplant procedures be required to be transplanted either on-site or off-site, including those within the proposed single family residential pad and 20 feet of that pad? The ordinance as drafted does not require in-fill to transplant the native plants. It is suggested, it is encouraged, but it is not required. The ordinance has standards and requirements spelled out for subdivisions.

Native plant experts have indicating ah have indicated transplanting more than once significantly decreases the survival rates of many regulated native plants. Based upon this testimony, should the ordinance require transplanting a second time back into development project in order to retain community character as a part of a landscape plan, or should transplanting be limited to a single relocation and be off-site? The consensus is the plants should not or should be transplanted only once. As written, the ordinance requires undisturbed areas at various thresholds.

MR. HUMPHREVILLE: I have a question on that.

MR. KIRSCHMANN: Sure.

MR. HUMPHREVILLE: As I recall the consensus and maybe I'm not reading it right, but the consensus was not that they could only could only be transplanted once and the reason for that was that we were trying to allow for plants to be put back in, especially on a commercial, to be put back into landscape areas so I don't believe that the consensus was that if they could only be transplanted once. It should be, but I don't believe that it was that they could only be transplanted once.

MS. STURGES: We also discussed at that time possibly rotating the different sites that somebody had, a site that they were doing it and they could rotate so there was quite a bit of discussion on that - -

MR. HUMPHREVILLE: You can't mandate that because if there's not another project going, they need to be able to transplant those trees back onto the site if they don't have another - -

MS. STURGES: -- and then the issue was if the native plant expert says that it's going to die if it's transplanted twice, we don't want to encourage that to happen either because it could be unnecessary for our builders and developers, so, I believe that that's something that we didn't really have a consensus on because it doesn't sound like we have a consensus on that right now.

MR. KIRSCHMANN: And the ordinance as drafted does not require that they only be transplanted once, so if that is something that the Commission wishes to discuss, provide direction on, they may do so.

MR. HUMPHREVILLE: I think that's the way it should be.

MS. STURGES: I'd like to wait to hear the testimony from one of our native plant experts and then we can decide – can we come back to that issue?

MR. LOMBARDO: I think he's making a list of things we're going to be coming back to –

MS. STURGES: Thank you. Okay.

MR. LOMBARDO: -- okay. Move forward. When you're ready. Okay.

MR. KIRSCHMANN: Should the ordinance require supervision and monitoring of the transplant process by a native plant expert? Commercial/industrial/multi-family, the consensus was no expert. Ah, residential in-fill and small lot subdivision – subdivision, again, the consensus was no expert.

Should the ordinance require an annual report? Um, at the last meeting final decisions were made on the report. Ah, one report is required after a year and it's only for the plants that are going to be brought back on-site.

Should the ordinance require a maintenance program by a native plant expert and for what period of time? Ah, there is no native plant expert required by this ordinance.

Should the ordinance require that the regulated Native Plants Survey Permit application be reviewed and approved by the Planning Commission? I believe the Commission – ah – we'll be discussing this later, but I believe the direction was that the in-fill will definitely not be coming to the Planning Commission but the subdivisions will.

MR. STUECKLE: (*Speaking very softly, very quickly, and not into the microphone – difficult to hear and understand*) Should the ordinance require a maintenance plan by a native plant expert? It's really two questions (*inaudible*) not a native plant expert (*inaudible*).

MR. KIRSCHMANN: Correct.

MR. STUECKLE: So there – one of the policy questions that surfaced throughout the history of discussion of this ordinance, and I'll hit on two of them that Robert's pointed out here. One, there were significant discussions about the requirements of a maintenance program or maintenance plan for the transplanted plants and this subject, the second one, is that of a native plant expert. So we're just asking Robert to clarify that the current ordinance as drafted does not contain a requirement, we've already answered the question on the native plant expert, nor does it contain a requirement on a maintenance program or a maintenance plan.

MR. HUMPHREVILLE: The reason we didn't require that was because the native plant experts that were here, Robin Kobaly from the SummerTree Institute, said that the experts didn't even have an agreement on how those plants – one particular way those plants should be treated, so we didn't want to mandate that they be treated

MR. LOMBARDO: A certain way and have it be wrong –

MR. HUMPHREVILLE: Correct

MR. STUECKLE: So in the draft ordinance there is an annual report, which will identify the condition of the plants 12 months after the transplanting process has taken place and again, based upon Commission direction, that – that annual report or that 12 month report as currently drafted in the ordinance is only for those brought back onto the project site, but there is no maintenance, maintenance program.

MR. KIRSCHMANN: Um, final question of Staff, which we have already touched on but we believe that we're already – we're going to be discussing it is the issue with bringing projects before or to the Planning Commission. Once we determine, once the Planning Commission provides direction, whether the clear direction as far as which projects they would like to see Staff recommends adding language to the ordinance so that it's very clear so the applicants, as well as Staff, know which projects are required to come before the Commission.

MR. STUECKLE: Okay. A couple other policy questions and Staff, as the Commission can well imagine, was going back and trying to make sure that all of these underpinnings to these, this community-based ordinance were addressed, there's a couple more that didn't make it into the Staff report or the Power Point presentation that I'd like to remind the Commission of.

Um, one discussion topic and as the Commission saw, one of your more recent workshops on this ordinance was the requirement for the use of a tree spade. Some native plant experts have testified in the workshops before the Commission that they believe survivability, especially of Joshua Trees, increases through the use of a proper size tree spade. The Commission did discuss that topic, did provide direction to removed at a recent meeting but again, for the purposes of tonight's public hearing, Staff thought it was important to bring these issues back up during this process.

Also going back some period of time in these discussions, there were discussions or desires expressed to regulate or limit the time of year in which transplanting of certain species takes place. Some of the native plant experts have testified that - testified that certain native plants should only be transplanted during months one through three and seven through nine. If you plant outside of those, survivability is very, very low. Um, again, just identifying those from our conversations.

And then finally, in the early on discussions of changes to your current code, there was a significant amount of discussion and request to include in the regulations statements or standards

clarifying who is responsible to pay for the costs of native plant adoptions. I think those are the items that Staff did not have time to get incorporated into the Power Point this evening, but questions or policy (*inaudible*) have come up throughout Commission's dialogues as this ordinance has gone through the review process.

And then finally in terms of historical or background information, if there's any information the Commission desires to see – previous drafts that aren't included in the packet, please let us Staff know, we'd be happy to (*turning to side two of tape one – lost some words*) so you can see those for your consideration an deliberations.

MS. STURGES: Do you have the reports from Hogle Ireland?

MR. STEUCKLE: Not on the draft, not on the draft ordinances for regulating native plants, no, do not have those with us this evening - -

MS. STURGES: But you happen to have a draft ordinance – excuse me for interrupting– the plant and grading, correct?

MR. LOMBARDO: We're yet to discuss grading- -

MR. STUECKLE: As indicated in the Staff Report that was distributed to Commission, at the end of this evening's meeting we're going to be distributing the formal material - previously distributed materials on hillside grading. Um, that's what we have for distribution this evening, which is different from the ordinance, the draft ordinances that had been prepared and started going through the Commission deliberations on native plants. There are actually two separate sets of regulations.

MS. STURGES: Right. I was just thinking that since we use taxpayers' dollars to have this report from Hogle Ireland, have any of you seen that report? The proposed draft and ordinance? It's called the White Report from Hogle Ireland. I just discovered it today, I called them, and --

MR. STUECKLE: We have distributed that out to the Commission.

MS. STURGES: Okay. I just want to come back on one thing before I forget the stamped page, stamped page 8. On the left hand side it talks about the current ordinance, 140, under single family residential subdivisions, and it's down one, two, three, it says no maintenance plan required, however, plants are adopted and transplanted under supervision of a native plant expert. And that is under the current ordinance. I would like this - -

MS. ROWE: And I actually went back and re-read the original ordinance, 140, and on stamped page 84, letter C, it says a reviewing authority may require certification from an appropriate tree expert, but it is not required by Staff, the counter level, but it is up to the discretion, it is may required. Letter C up at the top. So I think the wording "may" was just left out of the matrix.

MS. STURGES: Since you're on stamped page 84, could we go to stamped page 85? And could I – if I ask what happened to the paragraph on the retention, well actually it's on the next page. 86. Retention of Joshua Trees and Yuccas. Section A and B. It was just completely deleted? And I was wondering what the staff – you know, it talks about the best efforts to retain and preserve all Joshua Trees, it talks about retain and preserve the trees in its native, present location and –

MR. LOMBARDO: Is this for residential?

MS. STURGES: Uh – stamped page 86. Oh, this is in the old ordinance. It wasn't separated out.

MR. LOMBARDO: Yeah, that was the problem. I don't think it was broken out into commercial/industrial –

MR. HUMPHREVILLE: Which is why (*inaudible*) now.

MR. LOMBARDO: That's one of the problems that we had with the ordinance.

MS. STURGES: Yes. So, I just want to know why it was completely deleted.

MR. LOMBARDO: Because it doesn't have any place in the commercial/industrial designation.

MR. STUECKLE: Would you like Staff to respond on that issue? I believe that that issue had actually been brought up before several months ago, and I'll try and repeat what Staff had indicated at that meeting. And that was, that language was re-written and the Commission saw the purpose and intent and the Commission actually provided very specific direction to the Staff at your last workshop on this matter for the language to be included in purpose and intent, and I believe Staff has returned that to you as the Commission requested. But what Staff had indicated in terms of the language being discussed this evening is while the purpose and intent contained that language, that's not what the ordinance achieved. And Staff had indicated previously that if you're going to have language in the purpose and intent, the language within purpose and intent should match the provisions of the ordinance. And so in terms of it's our desire to retain – I'm not reading verbatim – but as discussed, retained as many native plants as possible and regulated native plants as possible in their native locations to include that in the purpose and intent section would be in contradiction with the provisions of the ordinance as the Commission has currently drafted that ordinance.

MS. STURGES: So once again on stamped page 85 under transplanting of Desert Native Plants number 2, Transplanting Approved by the Town of Yucca Valley must be initiated and completed under the supervision of a Desert Native Plant Expert. Approval of such transplant must take into consideration the time of year, the plants original and transplanted physical orientation, prevailing wind direction, soil type of the original and transplanted locations and other related attributes which may affect the successful transplantation of the Joshua Trees and Yuccas in question as determined by the Town and the retained Desert Native Plant Expert. Again, there is two references in our ordinance previously to use of a native plant expert.

MS. ROWE: I think the general consensus of the Commission was that we all agreed that those things will help the survivability and that through the educational process, which was originally given by council as wanting that, that we by the incentive process, through education and encouraging, whether it's in-fill, commercial and/or single family subdivision, to attend those courses that the SummerTree Institute, that they would make available year-round for us, and in those courses teach these things that were listed, that we created an incentive-based program that would create this knowledge that's here and that they would then in turn have that, to increase the survivability. Is that not the general consensus?

MR. HUMPHREVILLE: I think it was.

MS. STURGES: So my question to you is that when you state that it was not required in the old ordinance, I'm just pointing out that previously it was required, a native plant expert. Also in the General Plan, one of the biological elements that's required is consulting of an arborist.

In getting back to the incentives, if you'll go to stamped page number 68, I gotta tell you, I've never heard anything from anybody and maybe our Commissioner Humphreville who is a builder/developer can explain some of these particular tables, whether or not this is really an incentive. How do we know for sure these are incentives? How do we know that this is going to make a builder/developer say hey, wait, I want to save as many trees as I want, because this is a good thing. We've not had any discussion at all about any of these incentives. What is it - -

MR. HUMPHREVILLE: Part of the incentives that aren't even talked about here are the costs of transplant – take a single family resident – subdivision, and that is if a developer is developing that property, and he looks at having to truck trees, if he's going to adopt all the trees out and the cost to truck those trees all over the Morongo Basin versus transplanting those trees into the native areas that are left in there, that is a huge cost saving that no developer is going to miss, and that also, having the equipment on site, there's equipment that has to be drug around, and those are two big incentives on top of the setbacks, and these are when you're trying to develop a tract, these are good incentives and that's part of it. But, (*inaudible*) mentioned incentive of the whole thing is just as much as the cost when you're trying to drag these trees all over the Morongo Basin, they're going to put as many of them back in the subdivision as they can, simply for cost. And they're not – the cost to haul – just to destroy them at home for the dump is significant, the dump fees are really expensive, and so that's an incentive that's not even mentioned in here, but it's going to be a big incentive for that type of development.

MS. STURGES: To me that's not an incentive, to consider the cost of taking them to the dump, I mean, why don't we just chop 'em up and use 'em for fire wood.

MR. HUMPHREVILLE: When you're talking about –

MR. LOMBARDO: What you're saying is it's more economical to transplant them back on the property.

MR. HUMPHREVILLE: Correct.

MR. LOMBARDO: If that's obvious to the developer, then he's going to try to do that.

MR. HUMPHREVILLE: And it will be very obvious. And these are good incentives to have setbacks for - -

MR. LOMBARDO: Decreased setbacks.

MR. HUMPHREVILLE: -- decreased setbacks will make a huge difference in a tract.

MS. STURGES: Well, there's although neighborhood commercial, general commercial and office commercial setbacks – all I'm saying is that these particular tables as an incentive I would like to see maybe four or five builder/developers sit down in a huddle and say yeah, you know what, this will work or this isn't going to work or this is a good plan. That's all I'm saying. I am not a builder/developer.

MR. LOMBARDO: That's why we have - -

MS. ROWE: Even public comment tonight - -

MR. LOMBARDO: -- hopefully somebody will be here. We'll see.

MR. STUECKLE: Mr. Chairman, if Staff can address that issue. There's been questions raised in term this evening in the Commission's deliberations about the language of the General Plan. I haven't heard a specific reference, but I believe the biological resources element, so General Plan Biological Resources Element Policy Number 6 states, "To the greatest extent practical, the Town shall require developers to salvage native Joshua Trees and shrubs for incorporation into project landscaping or transplant trees to other sites." So that's the policy guidance that is established by the General Plan.

In the Commission's deliberations this evening and what you'll be forwarding, ultimately forwarding to the Town Council for consideration is an ordinance on how you implement that policy. So the policy doesn't establish standards, the policy doesn't establish criteria, the policy is actually very broad and actually planners – for general plan language it's okay; for regulations it's not to the greatest extent practical. What does that mean? So that's the policy. The Program - Program 6A - Enforcing the Town's Joshua Tree removal permit process and develop and make available information on salvaging and transplanting Joshua Trees and other appropriate native vegetation and shall provide a list of qualified arborists as part of a program to preserve and extend the Joshua Tree Woodlands Community throughout the Town. So that – that is the language that the Staff sees in the General Plan this evening providing the policy guidance and direction for the preparation of these regulations.

MS. STURGES: Also. I would refer to the Low Sediment Control and Soil Conservation Element Policy Program 3A, is to develop and adopt for hillside specific or sufficient comprehensive generic grading ordinance, non-grading, okay? Anyway, it talks about the consideration of (*inaudible*) and hazards, erosion runoff, unsightly site disturbance, wildlife and habitat preservation. Now in the policies that we have under slopes and sediment control, on the general plan, on Policy number 5, it talks about soil disturbance, to keep it at a minimum and I believe that when you're grading from lot line to lot lines, that it is violation of our General Plan and I hope that we can find a solution to that.

MR. STUECKLE: Do you have a specific reference in that element of the General Plan?

MS. STURGES: I can – I can bring it up later. Let's move forward and I'll bring up that particular element. I just wanted to state for the record.

MR. STUECKLE: Very good. That concludes the Staff presentation. What I think we should do at this point is I'd like to go back through the items that the Commission has requested for further consideration.

One is definition of disturbed or undisturbed. There was a question regarding the vagueness of incentives and how much education is required. Commission had a relatively lengthy discussion that the education component is separate from ordinance, it is anticipated that that educational program will evolve and change over time, and that completion of that educational program provides the opportunity for all incentives, as identified within the current draft ordinance, within each one of those land use districts. The Commission also indicated that, it gave consensus that the areas of no disturbance would be for no grading activities, no construction activities, but those areas are eligible for planting of regulated native plants so that more landscaping in those areas

would be a good thing. Commissioner Sturges had raised the issue of previous discussions about the requirement for buffer zones around residential subdivisions and that may be a topic. The Commission did address some of your prior discussions about that for the use of the incentive program, trying to accomplish that same goal, as well as the 5 and 10% percentage areas required to remain on the larger lots. Commission indicated the desire to see native plant inventories and plans with residential subdivisions to come before the Planning Commission with a part of those applications. Commission has indicated that the ordinance should be clarified that plants available for transplanting off-site first level priority is within the Town; second level priority is within the Morongo Basin. I believe those were the key points, unless Robert you have others in your notes that I have missed.

MS. STURGES: We were going to discuss transplanting only once.

MR. STUECKLE: Oh yes, number of times to transplant one plant. Come back to this issue. So I think those are the points for Commission discussion. The Commission has been in this public hearing for a little bit over an hour and a half; Staff would recommend that you take a five minute break, allow everyone to stretch their legs, and then come back and open the public hearing and take public testimony on this matter.

MR. LOMBARDO: Okay. We are going to adjourn and we're going to re-adjourn - -

MR. STUECKLE: Five to ten minute break.

LOMBARDO: Yeah. I've got 15 of 9.

MS. ROWE: Okay.

MR. LOMBARDO: Are we ready to roll?

MS. STURGES: Make sure she's got the recorder on.

MR. LOMBARDO: You got the recording going and everything's moving. Okay. So now we want to ah hear from the public I think is what we want to do at this time. At this time we want to hear from the public.

MR. STUECKLE: Yes.

MR. LOMBARDO: So – I have a list of those – let's see – let's hear from those in favor first, I guess. If you want to speak tonight, please fill out one of these sheets and return it up front here. Can we hear from David Mahaffey. Will you please come to the podium, give us your two bits on the ordinance that we've been talking about.

MR. MAHAFFEY: My name is Dave Mahaffey, I'm a citizen of Yucca Valley and reside at 7361 Wamego, or at least I spend most of my hours there. Um, I am in favor of the Commissioners, Committees, and so on and so forth and the plant ordinance. Something needs to be done. Somebody has to do the job. It's not easy. I applaud all that are here again sitting before the Commission and the citizens that have come down here and taken their time because if you don't get down here, then things don't get in here that need to be known. What I'd like to share here which might help you out – put a new tool in your toolbox – is something I heard down at the

LAFCO meeting in San Bernardino. I spent an 8 hour day down there. Um, is that the waste water and the gray water that I'm involved with, if the vaults that I'm involved with and the design of those vaults would help the Commission and the builders to be able to move those plants at one time into those vaults, the vaults can be trucked and moved with cranes and equipment. Therefore, could be designed to look like anything they would want to look like on the site at a finished product could be set aside in reserve and then taken back to the site as non-taxable block walls, as retaining walls, and as well as water retention, so they are taking care of the flood problems from the properties. It would also be resolved. What we're going to find out is their gray water or black water and our waste water problems in our landscaping plans are all inter-related. This brings a new tool to your Commission. That's what I'm here for. Thank you.

MR. LOMBARDO: Thank you. Charles McHenry. Are you in favor of?

MR. McHENRY: Thank you Mr. Chairman for giving me the opportunity to speak this evening. I don't know how many of you had a chance to read the article by Mike Branning, High Desert Star last week, I thought it was kind of appropriate timing. I'm fortunate enough to live in one of the neighborhoods that Mr. Branning spoke of where we have a lot of native growth. What concerns me about this ordinance is the lot to lot grading on half acre lots. I think maybe there might be something that could be done for incidental or additional building for RS2 that might preclude us from that. I'd hate to think about what my property would look like if it had been done at the time when my house was built. I have a half acre lot and I have approximately 15 Joshua Trees on my lot and its one things that made that lot attractive to me when I moved here several years ago and I've seen places where they have had lot to lot cutting in several residential areas I won't mention because I'm sure you guys know where most of that work has been done where I was told the grading and clearly would prevent flood problems. In several neighborhoods, we live down the hill from those neighborhoods and developments and if they have a chance to testify to tell you, guess what? They cleared all that vegetation out, several of these people I know for a fact other front yards back here in January because of the flooding that came down from the hills. So I think we need to try to do something (*inaudible*) as possible on even half acre in-fill to keep the vegetation in place to help hold back the erosion and flood process. Everybody knows we do have flood problems in this town and they're not going to go away and I feel by mass grading everything (*inaudible*) once you (*inaudible*) that ground, it doesn't matter how much vegetation you save, you still damage the soil. Thank you.

MR. LOMBARDO: Brian Daniel. Are you in favor?

MR. DANIEL: Hello, my name is Brian Daniel. I reside in Calimesa. I have a business here in town and I've lived here up until six months ago since 1978. Ah my ah comments are in regards to the spade truck versus the backhoe. We have had very good success with transplanting with the backhoe. There's a lot of areas that spade trucks are not accessible to. Um, time and care does have to be taken ah while this transplanting process is being executed, and I think the biggest problem we have with issues of transplanting are from people getting in a hurry, but I do believe that with the equipment that we use, ah it can be done properly if the proper time is taken. Thank you.

MR. LOMBARDO. Thank you. John Livermore. Are you in favor?

MR. LIVERMORE: John Livermore, I've been a resident of Yucca Valley for 40 years. Ah, I've worked in the field for 30 years ah grading and transplanting trees with a backhoe. I've had success doing it. Ah, a lot of times we've called out for the spade, the spade says we can't do it in this soil. Ah, a backhoe works. Ah, as far as success rate, it's hard to determine, it takes a long

time. I've had an EPA representative come out and watch what I was doing and suggested things to him, I said that's about what I'm doing. He said that's fine, you're doing it properly, you still have one to five years before you're going to know whether this tree is going to live or not. And we have transplanted other things ah and pretty successful. We also have graded lots where we left vegetation on the back side or the front and we transplant the trees in that area very carefully, not disturbing the other vegetation and ah it's ah, it works out, until people sometimes move in and they strip the rest of it off so it's up in the air, but anyway, that's my comments. Thank you.

MR. LOMBARDO: Thank you. Tony Culver? Are you in favor?

MR. CULVER: Hi, my name is Tony Culver. I've been here since '78. I agreed with Brian on moving with the backhoe, they can be moved with a backhoe pretty easily, but you have to take your time, you can't damage the tree. And I think the biggest thing with moving the tree is the health of it. If it's a healthy tree, nine times out of ten if not better, it's going to make it if you take your time. And then uh I had a comment on moving the trees twice. Home Depot successfully did it. I just happened to be there today and I they I saw one dead tree from all the ones that they moved twice so, that's what I have to say. Thank you.

MR. LOMBARDO? Thank you. Ramon Mendoza.

MR. MENDOZA: Thank you Mr. Chair, members of Commissioners. Um, since 1991 we have been arguing whether to save trees or not. We are still arguing. However, it would appear as though we are now looking at an ordinance that has more to do with setbacks and grading than it does with saving life and trees. Now there's another problem. Everybody keeps calling the Joshua Tree a tree. It's not, see. It looks more at the bulb like a palm tree, and a palm tree is really a big piece of grass. So we can't have an ordinance that describes what to use and how to do it, because on that we depend upon the people who's operating the equipment and we're depending upon the land to be the same, and it's not. We're talking about disturbing and then replanting. Forget it. It's going to die if you replant it if you're going to grade from border to border, okay? If you try to plant anything native back into the site that's just be hogged out over here, completely gutted of any life, it's going to have to have supplements if any of it's native, and it's probably going to die. As far as Home Depot's concerned, it's still dying. It's going to take three to five years, as somebody said. They die, take a long time. Um, to regulate or not to regulate. Without a total quality management plan, you're wasting your time. Quality has to be have an assessment, has to have an understanding of what it's about, if it's major or critical or minor, with regards to what you're trying to accomplish. We don't have that here, okay? We don't even have a plant ordinance that's complete, okay? Um, the projects are anticipated clear cut yeah that's disturbing as hell. We forgot the desert plum, we forgot the chollas, we forgot the jojobas and we forgot the nolinias. They grow here too, okay? And again, please, when you say all species of Yuccas, move item 4 all Joshua Trees up into the Yuccas. They're Yuccas, okay? So, I find it very sad that we're sitting here at this time dealing with a grading ordinance and not a plant ordinance. We're trying to justify killing.

MR. LOMBARDO: Thank you. Brett Morrison?

MR. MORRISON: Good evening, Brett Morrison from Yucca Valley. I've watched you guys deal with thing, grapple with this issue for pushing four years now, and I just want to say I appreciate your efforts to lean toward the less complicated side of things instead of the more, to contineweeding things out and making it less complicated, it will be a lot easier for everybody involved. I think the ordinance is fair, I think it's simple, I think it's clear, anybody can understand

it, it's very easy for the Town to implement as I've said already, I'd urge you guys to put this thing to bed and send it on to Council and get their opinion on it. Thank you.

MR. LOMBARDO: Rufus Daniel?

AUDIENCE: He left.

MR. LOMBARDO: He did? Ah, Judy Van Ruggles?

MS. VAN RUGGLES: Commissioners, Council, Staff, I appreciate your being here tonight and I appreciate the fact that you are a Planning Commission and in such and as such, you can consider as I've said many times before, that we're establishing precedent for all the surrounding communities. And in so doing, you should simplify, as you plan to do, with your language, with your consistencies, with your descriptions, um to make it more understandable for the lay person and the lay people like I am. My husband, my late husband was a technical person. He knew all the scientific names of all the native California plants. And some people at Santa Ana Botanic Gardens considered him to be an expert. He wasn't a certificated expert, but he was knowledgeable about a great deal of the native California plants and he had a whole library that we established over the years to help educate other people and like Ramon said, the Joshua Tree is a Yucca Brevifolia. And he pointed that out because somebody in the newspaper one day had written an article about how uh why is it called Yucca Valley? There aren't any yuccas here. And my husband pointed out in the article that there were several different kinds of yucca, all along the highway, up and down, and there were Joshua trees which are yucca brevifolia. Well as the scientists and the native California experts for the plant life here have discovered, there are several different species of plants that are connected several feet down. And the more they learn about these plants and how they're connected and how they've been there for thousands of years, it behooves us to know that these plants are connected like the parts of the body, like the fingers on a hand. You remove a finger, somebody loses a finger. How difficult is it for a surgeon to reattach it, with all the nerves intact? And for it to survive and be a functional part of the hand again? And I'd like to point out that there are several plants when you do that, you remove a creosote bush, for instance, which roots go down 30 to 40 feet. You can't just catch a little ball of roots, because their food sources are on rhizomes, they go many, many feet out, thousands of feet out, and connect them, if you will notice, in the desert, the creosote bushes are lined up in lines. Literally 45 degree angle lines. And these are all connected with the rhizomes, which are food sources. And when you consider removing one of those in the middle and then trying to transplant it back? You know, your consistencies, again, are going to be many. You're going to destroy more plants than you save.

MR. LOMBARDO: Thank you. Billy Weaver?

MR WEAVER: Good evening, Commission. My name is Billy Weaver. I've lived here in Yucca Valley for 12 years. I'm Operations Manager for High Grade Materials. Our company has been in the Morongo Basin 26 years. Um and during this last couple of years, we have ah, I've had to lay off a lot of employees because of slowed and stagnant building. Construction is the largest um section of employment in Yucca Valley. I think it's time for this Planning Commission to focus on bringing business back to Yucca Valley. We have five quarries in the high desert, and we have eight ready-mix, or nine ready-mix plants. I would say that at our quarries, we have transplanted over thousands, thousands of Joshua trees, and we've done it with backhoes, excavators, and nylon straps. Just regular operators, no doctors, no horticulture experts. Um Commissioner Sturges is here about gearing up, so she talked earlier about when we're ready to gear up again, there's not going to be no gearing up. We already have enough ordinances holding us back right

now. I know a lot of people that don't want to do business in Yucca Valley because of it, they won't build here because of that, and I think it's time for us to move on. Uh you guys have been working this ordinance for a long time, it's time to move on and get jobs back in Yucca Valley. We have a national park right here in our backyard. We have Covington Park. We have the preserve in Poineertown—in Pipes Canyon. We have the Mojave Preserve. Um, and the importance of this is personal property rights and I think that maybe- uh, ya know I got, say a doctor, uh, that they say, experts say the tree's not going to live, well I've had doctors tell me I wasn't going to live either, and to the joy of some I'm still here and to the angst of others I'm still here. But um I don't think we need native plant experts. I think this commission's done a really good job and I think that we need to go ahead and move on with this ordinance. Go forward.

MR. LOMBARDO: Thank you. David Fick? Sorry.

MR. FICK: David Fick, Joshua Tree. Um also Vice President of MBCA. Um okay. The first observation I want to make is our developers go bankrupt in Joshua Tree before they clear clear cut not after. Um another question is where is the Hogle Ireland \$25,000.00 effort? There was supposed to be, now it sounds like four years from what people are saying, Hogle Ireland's supposed to be doing the Native Plant Ordinance and the Grading Ordinance in conjunction with each other, they were given \$25,000.00. I talked to a number of people, they talked long ago to some people. Where is it? That's a big question. I think the Planning Commission should ask what's going on with that. I think there's been very little progress on this. Had this Hogle Ireland effort been done three and a half years ago, you'd be going over it with a fine tooth comb and you'd be done two and a half years ago with a Native Plant Ordinance. So where is it? Just because of ineptness and start-stop start-stop start-stop start-stop, because that's what's happened with this for the last four years. That's why every time it stops, the start up takes more time and that's why you've been here this long. Um, I'm very disappointed in this current state of the draft ordinance. I think it's a step back. One of the examples of the step back, I know you have lots of work in this and lots of little questions have been answered and all that, but the large problem with it. One, you really don't want the Joshua Trees to be saved in the manner that you're saying. One, you don't need a native plant expert and two, the requirement that was dropped for spade. Go to the National Park Service and ask them how they move Joshua Trees. They aren't going to get out and tell you that they don't get a guy with a backhoe to do it. They know how to do it. The requirement I understand the last meeting Tim Humphreville called four different people to get a bid on what it would cost to move a Joshua Tree by spade. The four people he called did not have a spade. The only two people in the Morongo Basin with a spade is Mike Branning and Archie. They were not called. I called Archie the day afterwards. He gave me a quote within five minutes. If you move it five miles, between five and fifteen feet, it's \$385 bucks. Not \$900, and it might even come down if you're doing a number of them. So there have been a lot of decisions on bad information, there's been a lot of bad start-stop start-stop, I'm not going to applaud this thing. That's why on the slip I didn't mark in agreement with it or not in agreement with it. I'll stop there.

MR. LOMBARDO: Thank you. Barbara Runt?

AUDIENCE: She's gone.

MR. LOMBARDO: Mike Branning?

MIKE BRANNING: My name is Mike Branning, also a resident of Yucca Valley. I own Unique Garden Center. I am a native tree and plant expert, and I've never been called upon for any consultation. Ah, back in November I submitted a letter to the Planning Commission. I assume

you all received one. I never received a call back or advice that could be provided to the Planning Commission. Um, as much work as you've put into it already, I see there's a lot of flaws, it's not really ready to go to Town Council yet. In my opinion, the way it's drafted right now, that it was to be implemented, um pretty much everything that would tried to be saved would be lost. Can a backhoe be used to move a Yucca Tree successfully? They have been before, and you do have some success. Um, I would basically put that to you also have some success in having no traffic on the 91 freeway at 5:00 in the afternoon. Can you get through? The answer's yes. With any degree of success, the answer's no. As far as dropping the tree spades from the ordinance, you can pretty much take your you have right now and just throw it out the window, because the tree spade, pretty much with a tree spade you have 100% success rate in moving a tree. I referred to in the letter that I gave you, if you don't have one, I could give you one this evening. That's what a tree spade is versus bare root. Bare rooting would be consistent with using a backhoe and you have a very high mortality rate when you use any apparatus other than a tree spade. Um, as far as Tony eluded to as to the success rate at Home Depot and only losing one tree, he's correct, they're all moved with tree spades. I can show you a number of projects, we were involved in a project on Acoma, the subdivision over there, we moved over a thousand trees with a backhoe, and a 95% failure rate. And so is a backhoe the answer? No. Um, not calling on, or having a native tree expert which can be trained, that would mean that I would be out there running around trying to save every tree and blowing up every job, no, but can people be trained by people like myself and Robin Kobaly that can actually go out there and determine the health of the tree and as far as the maintenance of the tree after the tree's been moved temporarily before it's sealed back in, without a native tree expert or someone who is qualified to review those trees, again, you're might have building inspectors look at homes. I mean, it will just be a complete failure, so, I can go on and on, my three minutes are already up, as mentioned in the ah, my letter. Thank you.

MR. LOMBARDO: Charlene Connors?

AUDIENCE: I don't think she's here.

MR. LOMBARDO: You don't wish to say something? Mike Branning? Just did. Okay. Is there anybody else of the public that would like to speak at this time? Please fill out one of these things. Please fill one out when you're done but come to the podium, state your name and address.

MR. POIST: Good evening, my name's Lou Poist, I'm with the Rancho Mesa Tract 8741 I believe it is. I have resided in Yucca Valley since 1983. I introduced myself two weeks ago at the Planning Commission meeting. And again, I'm just here in front of the Commission trying to get acquainted with the process to how a project like this ever comes about. Ah, in 1991 I guess we incorporated in November. In February or January of 1991 it was Town, and I'm not here to criticize anyone, but I am here to say where is any buffer zone to a residential tract, to a commercial/industrial situation, 60 feet away. I value Rancho Mesa as one of five nicest developments in Yucca Valley, and recently I learned of Burrtec's plans to put their new facility in directly 60 feet from our residential tract on Skyline Ranch Road and I'm appalled that a city, that's been here for this number of years, couldn't have seen this conflict coming, between the development of 121 lots and 87 homes with a pretty good tax base and yet we're going to have it depreciated by the development with a chain link fence similar to what has on the existing site of Buena Vista and I just, I'm looking for answers, because I think there were some chances along the way that we could have maybe looked down the pipeline and found a better location for a development such as that, an industrial. So I'm just introducing myself here because I'm going to be back, no threat, no nothing, I'm just wanting you to know I'm concerned. Thank you.

MR. LOMBARDO: Okay. David Mahaffey, you've already spoken, right?

MR. MAHAFFEY: Mm-hmm.

MR. LOMBARDO: Anybody else that wishes to speak? Okay. I'm just going to go back to the Commission. How do we proceed next? We're supposed to ah – obviously there seems to be a little disagreement between what I felt we were accomplishing and what the public feels we are accomplishing. I thought we were making some progress, but ah (*inaudible*) - -

MR. STUECKLE: Um, Staff had before the Commission's break identified the issues the Commission wanted to see clarified um within the regulations and where the Commission had consensus on the current regulations. Um – just want to run through those again. Ah, definition of disturbed or undisturbed and that's something that ah I think Staff would like a little bit of time to draft and to include within the provisions and to return back to Commission with. I think the Commission has clarified the incentive issue and availability of the incentives. As the Commission was having that dialogue, Staff was looking at the draft ordinance and Robert while I'm speaking here if you could take, go back to the Single Family In-Fill section, we weren't sure if that section of the draft ordinance included the language, included the language for the educational requirement.

MR. KIRSCHMANN: It does not.

MR. STUECKLE: And so Staff hasn't seen that issue, um, and that's something that should be consistent with the other provisions of the ordinance, the requirement for the educational program to receive the incentives on single family in-fill development, Staff would recommend that that be included in the ordinance for consistency purposes.

MR. LOMBARDO: And that's specific, it's not generalized, it's just specific educational requirements –

MR. STUECKLE: That's – well, the education requirement is required for in-fill in order to receive the incentives. Again –

MR. LOMBARDO: Right. Can we be more specific in what the educational requirements - -

MR. STUECKLE: And and I think that's a discussion for the Commission this evening is, do you feel that, does the Commission feel that the ordinance should describe in any detail and if yes, to what level of detail, what the educational program should include. Um, Commissioner Sturges had and the Commission did some discussion that Commissioner Sturges had requested ah the opportunity to discuss ah the potential requirement for a buffer to be included around residential subdivisions. Staff proposed the question to Commission of reviewing the applications, excuse me Regulated Desert Native Plant Applications as a part of an overall entitlement project and the Commission indicated for residential subdivisions that yes, Staff would include um that language within the ordinance. Additionally, Commission discussed for transplanting off-site and Staff will be clarifying within revisions to the Code that the preference is or priority level is Town of Yucca Valley, Town valleys first, followed by second level priority of the Morongo Basin. Um and there was a final issue of ah for discussion that Commissioner Sturges had raised and that was number of times to transplant one plant. So I think those were the issues brought up by the Commission. Um, in the Commission's deliberations this evening, there have been discussions, and all of the ordinances the Commission puts together do need to be based upon the General Plan policies and the guidance that's provided by the General Plan. Staff had previously um identified language within the biological - -

MR. LOMBARDO: Quiet please. If you're going to discuss, please discuss outside so we can continue our business. (laughter). We'll have a sheriff come forcibly remove you.

MR. STUECKLE: Staff has had read into the record the policy and programmatic language addressing regulated native plants or, at that time it wasn't even referred to in the adopted General Plan as Regulated Native Plants but Native Joshua Trees and shrubs.

Ah, questions were also raised ah during the Commission's deliberations this evening regarding the General Plan element titled, "Slope Sediment Control and Soil Conservation Element." Staff would just like to um go through it, a little bit of the language that we've identified because again all of the regulations that the Commission forwards ah recommendation to the Town Council on are based upon language in the General Plan, so going to hit on a few portions of the language within this element. Again, this is now taken ah from the Slope and Sediment Control Soil Conservation Element, specifically sub-titled Wash Areas and Storm Water Runoff. As discussed in other elements of the Plan, the General Plan, the community greatly values the natural, biological and scenic resources within and surrounding the Town and therefore attention to potential impacts of grading, including soil erosion, is essential. Natural vegetation should be left in place, *and we love these words*, to the greatest extent practical to limit the area to be disturbed and subject to surface erosion and also to enhance the biological and general open space character of the community.

Um as development – under Future Directions – As development continues, the Town will be faced with the responsibility of regulating grading and construction activities to protect lives and property, controlling costs of maintenance and cleanup and the preservation of scenic and biological resources within the community. To effectively accomplish this task, the Town will rely on the Development Code and Subdivision Ordinance and their associated development standards.

The Town shall also prepare a Slope Preservation/Erosion Mitigation Grading Ordinance that more specifically addresses issues of grading and development of slopes and other areas subject to erosion. When the Town started out this process, it was Staff's desire, without question, to try and take a grading or hillside grading regulation through the process simultaneously with native plants. It was our desire, that was utopia, in a perfect world, us trying to get these issues hammered out together. As that, as those regulations began receiving the public participation process, um, input and direction from the Planning Commission, it was evident because of the conflicting goals, the passion that's felt about these valuable resources in the community versus private property rights, that progress was not going to be able to be made when many of those were occurring simultaneously. Those issues were separated. I think the Commission can even still see that today when you review and you read into the record a portion of the Minutes from the Joint Town Council Planning Commission meetings that have occurred previously, some of the direction that was provided by the Council at that time to the Commission and the Staff, but you're still hearing through the public sentiment this evening about the desire for the language of the ordinance to be in different format. So, again, I think the Commission can see the complexity and the numerous issues of this community-based set of regulations that make processing both at the same time difficult.

Getting more specifically then into the goals, policies and programs, um, goal number 2, conservation of soil, protection of hillsides and mountains as valuable scenic resources and elimination of erosion debris on streets and in drainage channel and in habitats.

Going then to Policy 3, and in Policy 3 conflicts somewhat with the language contained under Future Directions. Future Directions said prepare a slope preservation/erosion mitigation grading ordinance. Policy number 3 says develop and adopt a detailed hillside grading ordinance, which more fully implements this element. So we've got – it's kind of some conflicting the language. Then when you go to Program 3A, Policy 3 which says adopt a detailed hillside grading ordinance which more fully implements this element, then you read Program 3A. Developing and adopt a hillside specific or sufficiently, *and I love this language when we looked back at previous work I've had to laugh at myself this evening*, develop and adopt a hillside specific or sufficiently comprehensive, generic grading ordinance consistent with the consideration of seismic hazards, erosion and runoff, on-site to site disturbance, wildlife and habitat preservation, preservation of view sheds (viewsapes) and habitat.

MS. STURGES: Could you - -

MR. STUECKLE: Absolutely.

MS. STURGES: - - I would like you to all read Policy number 5 on that same page. In order to control soil disturbance and erosion, creating associated with all development plans shall be kept to the minimum necessary to provide for planned improvements while maintaining maximum natural and undisturbed vegetation. That's Policy Number 5.

MR. STUECKLE: Absolutely.

MR. LOMBARDO: -- when we say that on a lot size that's this size, whatever the size was we decided –

MR. STUECKLE: And and the Commission - -

MR. LOMBARDO – in all practicality you can't do anything but grade it because we've got requirements of runoff and drainage and setbacks and lots sizes and usage.

MR. STUECKLE: And part of the public hearing process is for Commission to consider the information that you have before you, to accept the public testimony, to seriously consider that public testimony in your deliberations before you take final action. And I want to thank Commissioner Sturges for bringing up Policy Number 5 because I'd like to go on then into Program 5A which is contained within that policy.

Grading plans associated with development proposals shall clearly indicate those areas to be left undisturbed. Those areas which must be disturbed to facilitate development but which are to remain undeveloped shall immediately be re-vegetated, including earth regeneration in accordance with approved re-generation and re-vegetation plans and to be concurrently submitted with and to be an integral part of the Grading Plan. Re-vegetation plan shall include but not be limited to an appropriate mix of fast-growing annuals, perennials, and perennials native to the area. And I think the Commission has been doing this in the past. The project on, what was referred to as Burnt Mountain – do you recall the name of the project Robert for Burnt Mountain?

Um, on that particular project, Commission designated a no-disturbance area. A previous project which had expired but has been resubmitted to come back before the Planning Commission, Yucca 87. Project on the south/southwestern portion of the community, no disturbance areas. Another project by Specialty Homes at the end of Cholla Avenue, up by the – what's referred to as the old hospital, now one of the Moyle/Braswell Care Facilities – a significant portion of those

hillsides designated as no-disturbance, no grading activities. Another project in the dirt road portion of Sky Harbor, the Leland Strand project. A significant portion of those hillside areas, those scenic resources, view-shed resources, biological resource, biological resources on those maps designated as no-disturbance areas, so I think the Commission has been going in the direction, very clear direction consistent with the policy guidance that's provided by the General Plan.

One final Staff comment then is um, again, Staff is the original guilty party of suggesting that both ordinances go through the process at the same time, and it would have been our desire to accomplish that goal, but in this particular public process, we did not feel that was able to be accomplished and therefore the issues were separated. And as indicated in the Staff Report distributed for the Commission's consideration this evening, before you leave this evening, we're going to be distributing the Minutes and the Hillside Grading Ordinance materials that had previously been distributed to the Commission, as well as new materials that the Commissions, no Commissions have seen previously which would be more – referred to as the General Provisions of the Grading Ordinance, which Staff will sit here and tell you um from all development issues, based in this community, outcomes related to development issues are probably one of the most important set of regulations to put into place are the grading regulations, without question, from a technical Staff perspective. And that technical Staff perspective is different than the issue you have before you this evening, which is a community-based issue.

I believe that concludes the Staff – one final thing, just, I think it is important to go through uh of the public comments this evening. Mr. Mahaffey made his comments in support of the ordinance. Mr. McHenry made comments in regard to lot sizes and the appropriateness of lot sizes compared to complete removal of all native vegetation from one lot line to the other. Brian McDaniel made comments this evening about the success of both using spades as well as backhoes. John Livermore indicated similar information as Mr. Mc Daniel in terms of the success with other equipment. Tony Culver - similar comments. Ramon Mendoza, Ramon talked about a number of issues, from total quality management to the preservation of the differences in regulations, and I believe Ramon hit it right on the head, and that's why the issues are separated this evening. Regulations regarding grading and regulations regarding preservation or conservation of native plants are separate. Are their inter-relationships? Without question, but they are truly separate regulations.

MR. KIRSCHMANN: Excuse me. On – and then Ramon also commented on some of the plans I believe you were okay with the existing ordinance that was available on the back table. The draft ordinance, first plant on there is the Yucca Brevifolia, excuse me. Nolina is on there, as well as the wild plum and desert jujube. We also have beavertail that has been added to it, Mojave mound hedgehog, um cholla was not recommended by native plants to be included and so it is not there.

MS. STURGES: And creosote.

AUDIENCE: (*inaudible*) desert cactus plant.

MR. STUECKLE: Brett Morrison commented on the draft regulations before the Commission being less complicated, simple and clear to understand. Judy Van Ruggles discussed the possibility of this ordinance establishing precedent for surrounding communities and to therefore give it due consideration. Mr. Billy Weaver from High Grade Materials commented again on his company's transplanting of Joshua Trees and to his companies quarries and other locations and success that they have had on those. Mr. Fick commented this evening on requesting the Hogle Ireland White Paper as we've indicated to the Commission in prior Staff comments this evening.

We'd be happy to make those available for your review. Mr. Fick also commented that he is not satisfied with the current draft ordinance and was not happy to see the requirement of removing the requirement of the use of a tree spade. Mike Branning spoke from Unique Garden Center, offering his expertise if desired by the Planning Commission and indicated he sees some flaws in the ordinance and not very good success based upon his experiences and the way the ordinance is currently drafted. And then there were comments this evening from a representative, I apologize for not writing down the name, Rancho Mesa representative, on potentially conflicting abutting land uses between residential and industrial and therefore we need to have buffers and separation.

That concludes the Staff comments this evening. We have identified the issues the Commission would like modifications too within the ordinance. We've also identified the issues with Commission as addressed this evening for maybe further deliberation amongst the Commissioners. The Commissioner -- again, this is the Planning Commission's ordinance, and the Commission is fully capable of addressing any changes that you would like to see from the comments to the Staff received this evening. What we would recommend is your closing this item out but you continue the public hearing to your meeting of ah March 9<sup>th</sup> I believe is your next meeting, to allow Staff time to draft the changes that you've been requested, as well as any further changes that may come out of the Planning Commission deliberation.

MS. ROWE: One question before we proceed. Was the public made aware of our new revised list that was back with old Ordinance 140? For their review tonight. Do you mind if I circulate this and give it to Mr. Mendoza? Is that -- just -- if he could review these -- well, we have public comments -- I'd really be interested in making sure we get the list right.

MR. STUECKLE: Absolutely.

MS. ROWE: Okay.

MS. STURGES: Well, while you're doing that, if I might just kind of touch on the fact that I am happy to see that you are proposing that we move this to the March 9<sup>th</sup> meeting. I really would like to have heard from contractors whether or not the different tables are incentives. Um, I, you know, I'd like to, I'd like to know um how does it pencil out and is it possible to meet with six or seven contractors, sit down and say hey look, here's Table A, here's Table B --

MR. LOMBARDO: There's nothing stops us from calling them and getting our own personal survey. The couple of contractors that were here, both were in favor of moving this forward. They thought it was simplified and understandable, which I think is their big concern, they don't want something they can't understand.

MS. STURGES: And my question is, did they have a chance to look at the incentives?

MR. LOMBARDO: Yeah, I think that would be fair game to ask them. I don't know what their response would be to that.

MS. STURGES: It could be that we need to increase incentives. I'm not saying that, you know, I'm just saying I don't understand them, I know there's a table there, and --

MR. HUMPHREVILLE: I was told by one of the contractors that was here and read to him the incentives and he was very happy with them. That was Brett.

MS. STURGES: You read all the tables to him?

MR. HUMPHREVILLE: I did.

MS. STURGES: So, maybe we could hear from a couple of other contractors too to see if that's going to be - -

MR. LOMBARDO: What it means to a contractor basically is more square footage that useable on the lots (*inaudible*) setbacks, so they can build a bigger house if they preserve more plants, which is kind of the whole thing that we wanted, you know - -

MS. STURGES: What about any existing tracts that we have waiting in the wings? Would that be?

MR. HUMPHREVILLE: When it's – the soonest this ordinance gets implemented, those tracts come in under this ordinance, the way I - -

MR. LOMBARDO: If they haven't started yet.

MR. HUMPHREVILLE: Yeah.

MS. STURGES: But I'm saying – I'm saying would they like to look at the incentives and see if – whether or not – you know - -

MR. HUMPHREVILLE: They're welcome to call any of us or look into it, I'm sure.

MS. STURGES: Because I'm just wondering if it's this incentive that we're providing that's going to make them all jump up with joy and say oh I'm going to change everything –

MR. LOMBARDO: (*inaudible*) for March 9<sup>th</sup>.

MS. STURGES: Okay.

MR. HUMPHREVILLE: Again, another incentive that I mentioned at least to Commissioner Sturges was the fact that um moving all those trees uh around, you know, and paying for trucking or spading or whatever all over the neighborhood versus keeping them in the subdivision is going to be a huge incentive and I guarantee you any developer looking at it is going to look at it that way.

MR. LOMBARDO: And from what we've heard tonight, I guess my thinking on it is that, a tree spade is highly encouraged, but I don't see why it's mandatory. If we're getting some success with moving it in other ways, I don't know that we should necessarily - -

MR. HUMPHREVILLE: Well – I called, I called four tree services, and I'll make this clear since Mr. Fick said that I didn't. The only one that returned my phone was Archie. I had – if he told Mr. Fick that he didn't have a conversation with me, I'm sorry to hear that, because I spent a considerable amount of time on the phone with him. I did my darnedest to get him to give me just an average for a cost per tree, and he – again and again we're back to soils. Whether or not it will take four wheel drive to get the tree, on and on and on and I did my darnedest to do that. I did not call Mr. Branning, as he was not listed as a tree service, and he had just either acquired it afterwards or had just acquired his tree spade and I was not aware of that, or I certainly would have called him.

But uh uh and then that this, you know, again with that is they do not work in – I've been in, you know, I've done it for a long time, I do not work in all soils, I would never discourage anybody from using a tree spade if they wanted to use it, it's absolutely, I would never discourage that. But also mandating them for small trees which, I consider small trees six or seven feet and even a foot or two that you can dig up with a shovel and I'm not talking about bare rooting, Mike and I have discussed that before. When you use a backhoe, you do not have to bare root them. I'm not saying that it doesn't get done, but they do not have to bare root them and so that is another reason ah and having just two in the community is another problem. Ah, their availability when when we looked at our list and I saw the amount of um homes developed ah a couple of years ago was 350 and roughly and that's not including any commercial projects or any – they're – you know – so mandating that is – if we had 30 tree spades and 30 – sure it would be, but we did strongly encourage in this ah that it be used and - -

MR. LOMBARDO: I think that's part of what the educational thing- -

MR. HUMPHREVILLE: Exactly.

MR. LOMBARDO: -- will more define that an expert is not required but is highly recommended.

MR. HUMPHREVILLE: Highly recommended.

MR. LOMBARDO: If you're really conscious about wanting to save the trees and that's your intent, then those people will look into an expert and pay for it.

MR. HUMPHREVILLE: Big developers coming in on those tract homes, if they're going to spend the money to - -

MR. LOMBARDO: It's would be way too much trouble for them to do personally.

MR. HUMPHREVILLE: Exactly!

MR. LOMBARDO: They'll hire somebody to do it.

MR. HUMPHREVILLE: Plus if they're going to spend that amount of money to do those kind of trees, they're going to hunt down – they're going to have education and information handed to them and they're going to hunt down, spend a lot of money to do it, so it is a reasonable - -

MR. LOMBARDO: I think we're moving in the right direction and being reasonable about trying to merge these two sides together. I'm discouraged by the fact that, you know, public comment was go back to ground zero and start again. Ah, I just think we've made so much progress, I hate to see that, and I think that we should try to continue with a simplified version of something that works and I think we're there, we're close, I can smell it.

MS. STURGES: I – I just want to make a couple of comments and, you know, you can pull from that, whatever. Um, I think what's disturbing to a lot of folks out there is when they hear lot line to lot line. Ah, I think that's um causes a problem, and we have to ask ourself, well what is the reason for grading? It is grading lot line to lot line, we know that there's some projects that have pavement, curbs and gutters and what have you, and all along we've been hearing well no no no we have to we have to grade the whole project, we have to strip it, we have to grade it because this will take care of erosion and soil and dust problems. Now I gotta tell you, in the High Desert Star they've pointed out a building project that's having trouble with drainage, not to mention

Mesquite 55, so there we have two projects where the land is stripped, it was graded in order to quote unquote control erosion, and yet that's a big problem for both of those projects and I think that maybe - -

MR. LOMBARDO: But you're using examples that are, are places that have gone into bankruptcy, those aren't completed projects. If they were completed and the economy did not collapse, they would have been viable projects. They go through a period of where they're stripped, but when they're built out the way that it was designed on that piece of paper that we saw, it would have worked -

MR. HUMPHREVILLE: With retention..

MR. LOMBARDO: And would not be flooding the street with dirt and debris from other properties into other people's homes. That's the whole purpose of why we have to go through this very carefully, the grading and the retention of water on the lots, because we've not done that in the past in some areas and that is the problem we keep repeatedly have to solve every time it rains, and we've got to not let that happen in the future, we've got to stop that from happening.

MS. STURGES: Right. And just for your reference ah every time it rains, and we have all the soot and sand that comes into our town, it's estimated on an annual basis to cost the Town close to \$700,000 for the cleanup.

MR. STUECKLE: Where - if I may - where - how much?

MS. STURGES: \$700,000. Because it is cheaper to do the cleanup than to build any drainage facilities. If we did that over 20 years it would still be ahead of the game.

MR. LOMBARDO: We should pick the - we should pick the worst - we're diverging and we should stay on track.-

MR. HUMPHREVILLE: One comment on that and, and I remember I was not on the Commission but I was in the audience, ah, with this grading, especially in tract homes, was the difference pointed out like Storey Park. Storey Park was graded - lots individually. They had huge problems with cross drainage ah because the whole project was not graded, where new developments, they grade for that, and that's part of the requirements, and I remember that discussion ah ah from their - it is an important story -

MR. LOMBARDO: And Storey Park looks nice, 30 years after they were (*inaudible*).

MR. HUMPHREVILLE: -- correct. But it was also was not mass graded. But the problems that they had because of that are the cross drainage and the flood issues and that was brought up.

MS. ROWE: To bring it back to the points that you had mentioned that you would like us to clarify, if I could start with, what is the educational requirement? We mentioned education um maintaining a minimum of undisturbed, and I realize we need to clarify undisturbed, as well as being accompanied by education, if we can work on clarifying what the education is going to be so that that's, so that there's a general consensus with the Commission, and do these incentives apply to in-fill? Is the Commission comfortable with starting there? Okay. Oh - -

MR. LOMBARDO: You want to continue this discussion tonight? I think we ought to really move on to the other things we have to do and we're going to bring this back up in March.

MR. HUMPHREVILLE: I think the Commission is very close to completing your direction to Staff this evening for the changes that you'd like to bring back.

MR. LOMBARDO: Okay.

MS. ROWE: I don't think it should take us too long.

MR. LONBARDO: Okay. That's fine. Let's go with it then. Okay, so we're on to education. What are the things that we want to discuss, what's important to be clarified in the area of education?

MR. HUMPHREVILLE: Robin Kobaly -- stood here and told us that she would gladly put together some sort of an educational program for the community that anybody could attend.

MR. LOMBARDO: In our ordinance, should we expound at all on what educational requirements, or just say as presented by - -

MR. HUMPHREVILLE: I think we should -- something done

[MR. LOMBARDO AND MR. HUMPHREVILLE SPEAKING AT THE SAME TIME]

MR. LOMBARDO: -- and say and other information as needed to - -

MR. STUECKLE: I think Staff would recommend that some broad language be included about the education. That broad language - -

MS. STURGES: Other than checking out a book at the library.

MR. STUECKLE: Other than checking out a book at the library. That language would include how to identify a healthy plant versus one that is maybe damaged by rodents or insects, so healthy plant identification. Um the issue that has come up in prior discussions over time, as well as this evening, um, time of year to transplant. Again, this ordinance is a little bit different than others, this is education encouragement. So that training can include information on the recommended times of year to transplant these plants, but that is not a requirement.

MR. HUMPHREVILLE: Can I interrupt you?

MR. STUECKLE: Just very briefly, and I apologize for taking so much of the Commission's time this evening. Ah, generic or the broad-based language should then include post-transplanting or post-care, um if it's in a transition so if it's in a temporary location that's going to be transplanted again, and it should also, the education should be included once it's in its final location. How is this to be taken care of. So that would be the language that would return to the Commission with, describing the overall parameters of the educational program.

MR. LOMBARDO: There should be something in there about why they're important to save, their age, their interdependence on one another, ah, the benefits that they bring to the local environment. Just so it's out there because some of these people are going to be from other areas, not from our area.

MR. STUECKLE: Okay.

MS. STURGES: On the education too I think it's important to mark the position of the tree um where it needs to be planted back in the same –

MR. LOMBARDO: Same orientation?

MS. STURGES. Orientation. Thank you.

MR. HUMPHREVILLE: That was mentioned in the ordinance, someplace.

MS. STURGES: Well we're talking about education –

MR. LOMBARDO: Of the importance of orientation, climate and --

MS. ROWE: To dovetail on that, I would like to see that the in-fill section also mirrors the other section that we had where we require the education in in-fill to also get those incentives. If this is going to be education and incentive-based ordinance, rather than regulatory, then we should require that that education be mandatory for in-fill is how I believe. It's not that much time out of somebody's day to go learn about plants that are important to our community.

MR. LOMBARDO: The problem there is a lot of the in-fill is smaller lot sizes and we've, we don't have an incentive until you get up to 2.5 acres, right?

MS ROWE: The incentive still though is 10%

[THREE PEOPLE SPEAKING AT THE SAME TIME]

MR. STUECKLE: They're available for all lot – all lot sizes, yes.

MR. LOMBARDO: I'm sorry, I misunderstood. Okay. Is there anything else we need us to - -

MR. HUMPHREVILLE: The time of year, again. I can't see – although the education of it in saying you may have better success at this time of year to transplant this particular tree. We had a long discussion about that on the ordinance where - If you - -

MR. LOMBARDO: -- project that you have.

MR. HUMPHREVILLE: In order to have – yeah, so work, if not in a year, several months and sure, there are optimum times and if it can be done, they can adhere to do that, but mandating that was something that we talked about - -

MR. LOMBARDO: Mandating it is a problem. Adjusting it and putting it in education - -

MR. HUMPHREVILLE: Absolutely.

MR. LOMBARDO: -- that person can make their choice for themselves what's the value of that.

MS. ROWE: Commission Sturges, is this a good time to talk about the definition of undisturbed? And also I'd like to talk about the buffer zone, and I think they kind of go hand in hand?

MS. STURGES: Also, on the undisturbed, we really didn't describe the topography of that particular land. If it was straight up and they say well this is going to remain undisturbed and I want the credit. They couldn't develop it anyway. So I would like to - -

MR. LOMBARDO: Does that matter to you, as long as it's undisturbed? If it's not under what they can build on, but it's still undisturbed area, it still has visual appeal - -

MR. HUMPHREVILLE: Especially in the hillside reserve

FEMALE SPEAKER: I'm not talking about - -

MR. LOMBARDO: Left undisturbed is even better, I would think, so - -

MS. STURGES: I want to see them do it from good land. I want to see them give up - -

MR. LOMBARDO: Now you're talking personal property rights? You think they ought to be restricted?

MS. STURGES: I know, I want to see them give up something undisturbed.

MR. LOMBARDO: They are. By the percentage. They've got a piece of land. They're giving 10% of it to be undisturbed in order to get these credits. Why should you pick what 10%? It's their land.

MS. STURGES: But why should they have the benefit of a hillside reserve? It's mandated undisturbed.

MR. LOMBARDO: Because they bought a piece of land and half of it's hillside. It's a privileged zoning but they paid for it.

AUDIENCE: (*inaudible*)

MR. LOMBARDO: But we're not letting them build it. It's a hillside reserve.

MR. HUMPHREVILLE: Also, the buffer zone we talked about the pub – we didn't want to mandate the tract, we'd have to do a buffer zone around the outside. We said they certainly could as part of that percentage, but we also said they could put parks inside or use Riparian areas ah many of those things ah we're not keeping them from doing it, but in some instances with roads and drainage and all those factors, the buffer zone may not be practical or a certain size buffer zone, they can have a small buffer zone and parts inside, they can have a large buffer zone and no parts inside but that is why we did not say that you have to have a particular buffer zone.

MR. LOMBARDO: -- it could be a combination of things?

MR. HUMPHREVILLE: Correct.

MR. LOMBARDO: What we want is that at least 10% left undisturbed in order to get the incentives they actually have to have 20%. They have to be 10% over the ten, right? So –

MS. ROWE: I need help. I have a little point of clarification. I'm on stamped page 150 when we're talking about subdivisions. New residential subdivisions. These are our tract facilities that

will be coming in. Can we talk about – like I know Commissioner Sturges' desire to – I'm looking at Table 5 specifically. We talked about the desire to potentially have a buffer zone.

MR. HUMPHREVILLE: What's that page?

MR. LOMBARDO: Page 51. She said - -

MS. ROWE: No, no, I'm sorry. Page 50. In Table 5. I think I've stared this too long, I'm going a little bit further, but. Where we create the incentive, and these are for our tract developments, the purpose of it being incentive-based, so if they have 5% or 10% remaining undisturbed, that they get the incentives. It's the word "lot." Could it not be of the greater total gross acreage? What if they wanted to put a park in, in the middle? Or what if they wanted to have a buffer zone around the perimeter of the – we don't provide the incentive. It has to be on the lot the way it's written. Am I understanding that correctly?

MS. STURGES: Good point.

MS. ROWE: Again, it could be me that is looking at so much, it's not - -

MS. STURGES: No, you're right. I think you're (*inaudible*)

MS. ROWE: I don't think we should force them to have it remain undisturbed on the particular lot if in fact they wanted to put parks or buffer zone or in the case of the Mesa, the Rancho Mesa Association, how can we word that to simplify the ordinance?

LOMBARDO: Within the division subdivision? 10% be left undisturbed - -

MR. HUMPHREVILLE: -- within the project.

MR. LOMBARDO: 10% of the project? Just change the word?

MS. ROWE: Can we do lot or project? Or Staff want to think about it?

MR. LOMBARDO: You understand what we're - -

MR. STUECKLE: Yeah. The – this particular section is subdivisions. Subdivisions are going to include two kinds, or two levels. One is the parcel map, which is the four lot, and the other could be many lots, in terms of the tentative tract map. If I think in the discussions that have taken place, the goal has been for the project - -

MS. ROWE: Correct.

MR. STUECKLE: - - to provide for ah that undisturbed area, and as the Commission – based upon the Commission's direction - and as the ordinance is currently drafted, you are providing the flexibility to the project proponent to illustrate to you, because you have asked the ordinance to be modified, the Commission sees the Native Plant Application as a part of the Subdivision Applications, you'll be reviewing their proposal for where that 5 or 10% is located and how it ties in to the overall project. So based upon all those considerations, the appropriate language would be "project."

MS. ROWE: Okay.

MR. LOMBARDO: Are we in kind of agreement on that? Margo?

MS. STURGES: Mm-hmm.

MR. LOMBARDO: So change the working on that - -

MS. STURGES: I have a question. Just - just for an example. Is it up to 2.49 acres? Are most of our subdivisions at that 2-1/2 acres, or are they smaller? Or - - Let's just take the Living Spaces Project, which was bouncing back and forth because they were going to have a buffer zone, and then they weren't going to have one, and so now we have a little incentive here, um, is this going to be an incentive for them to have a buffer zone?

MR. LOMBARDO: If we're talking projects there, it's over 2.49 acres right there - -

FEMALE SPEAKER: But I think their lot sizes are smaller.

MR. LOMBARDO: No. The lot sizes are, but the project size - - we're changing the wording "project," right?

MS. STURGES: Yeah, but it says lot size on the left.

MS ROWE: Wouldn't that - - if the project - - if the lot sizes were less than - - I've been thinking about this today. If the lot sizes are under 2-1/2 acres, and that we don't require any minimum, to go beyond nothing is still 10%, so if they retain 10% in place, then they are eligible for the incentives, which in small projects like that would be huge to have a variance from your setback, with the type of incentives that are listed.

MR. LOMBARDO: The house sizes are normally smaller, smaller lot, but that extra couple of feet in each direction makes - -

MS. ROWE: Am I understanding the matrix correct, that none required, you have to go 10% greater than zero to be eligible for the incentives on the smaller lots.

MR. STUECKLE: That is correct.

MS. ROWE: Okay.

MR. STUECKLE: And I'm going to reverse myself now. The language in that table actually needs to include, there needs to be reference to lot size, as well as to the project, because this - this set of standards is based upon lot size corresponding to those biological hillside resources within the community, so Staff will include language to clarify both project, as well as lot size within that table. In answer to Commissioner Sturges' question, Staff did have conversations with representatives of Living Space probably five months ago? Four to five months ago and we were discussing with them the - the approach the Commission was taking at that time in terms of the incentives and being able to allow for a smaller lot size, shorter setback, um and they indicated, at least in the one meeting that they held, that they had with Town Staff, that that was highly desirable from their business perspective, as well as site development, in achieving what the community had been asking for during the public hearing process on that project.

MS STURGES: Good. I'm glad to hear that. Thank you.

MR. STUECKLE: You're welcome.

MS. STURGES: I think we got stuck on best effort.

MS. ROWE: I think I'm done, but one last thing that was brought up from the public comment was, we're going to bring this back again. Is it possible for you to consult with the native plant experts in terms of the list being completely inclusive, and I know we've heard from Mr. Mendoza that there might be one missing, jojoba, is that correct?

AUDIENCE: Right.

MS. ROWE: If there's general consensus among the community, let's make sure we get them all in. I don't know that that's the case, not being my field of expertise, but just for the record, if we could research that, because we're going to bring it back.

MS. STURGES: Another point I want to bring up that was mentioned at one time, is it spelled out about the subdivisions, that we will have an inventory in plan on the plants in inventory? Okay.

MR. LOMBARDO: In subdivision - yes.

MS. STURGES: Yeah. Okay. I don't remember if it ever kept coming back up again.

MS. ROWE: Sorry. One last thing. We heard tonight also that, we've asked for feedback at a one year mark on those transplanted on-site in making that a mandatory. Is it possible to go beyond that on a voluntary basis at the three year and five year mark? Because I think we've heard enough public testimony that you can't tell at one year.

MR. STUECKLE: Yes, you – the Commission if it so desires can include that language within the –

MR. LOMBARDO: Can you write something in there that it is not mandatory but voluntary - -

FEMALE SPEAKER: Yeah, absolutely, I think most people would be willing to do - -

MR. LOMBARDO: (inaudible) and its hard to do though.

MR. HUMPHREVILLE: And again, that's why, when we discussed that I really felt that it should have been not to the developer, but to the property owner - -

MR. LOMBARDO: Oh, I got ya. You're right.

MR. HUMPHREVILLE: - - because that property owner can be contacted where the developer may or may not be three years down the line or even a year down the line, and so I think that the information can be valuable but requiring it to be the developer, I had an issue with that last time - -

MS ROWE: How is it worded currently?

MR. LOMBARDO: How to word it so that the property owner is the one that can be reported.

MS. STURGES: It says Applicant in bold.

MR. LOMBARDO: Well the applicant could be a developer - -

MR. HUMPHREVILLE: But my suggestion was that we gave information to like in my instance, most of the projects I do I'm selling single family homes, but we gave that information to the owner and that the Town would contact them at that one year mark or two year mark or three year mark and ask how they were doing, and we'd talked about at one time collecting a fee but that – and those people we did, but that didn't go, but that property owner is going to know how that plant was maintained, where a developer is not going to know, and how he or she took care of it during that time so that information, if they really want that information ah it should not be the developer, it should be the property owner.

MS. ROWE: So on stamped page 54, letter "f," Robert would you mind reading it for us?

MR. KIRSCHMANN: Sure. The way it currently reads is, "Report required 12

[CHANGED TO TAPE #2]

(inaudible) regulated desert native plants. That is currently in the ordinance.

MR. LOMBARDO: Should we change that to home owner – to property owner?

MR. HUMPHREVILLE: I personally think so.

MR. ROWE: I agree.

AUDIENCE: (inaudible)

MS. ROWE: Absolutely no disrespect, it is not my field of expertise, but I know even in visiting with Ms. Kobaly, that has been before us in the Commission throughout this process, that it is still, and I think we referenced an Arizona Native Plant Ordinance where all the data coming in is still so – it's in its infantile stages and the more information that we can collect over a greater period of time, the better educated we are in how to preserve the plants, which is the goal of the ordinance. So if it is an optional reporting, what do we really, as a Commission in the community, have to lose to make sure that spading is as effective as you say it is as the other one. More information can't hurt us.

MR. HUMPHREVILLE: And also that one that the experts have such a variance among themselves of how the trees should be planted and taken care of and watered and whether or not they should be watered so much and that's what you stated, where there was such a variance there was not a consensus, so that's why we ah we did what we did.

MS STURGES: But isn't it understood, and I'm not a native plant expert, but isn't it understood that the smaller ones, I'm looking at a smaller Christmas tree or pine tree or whatever, that can be transplanted, but you're talking about an ancient. I think that if they get to a certain age or a certain height, it's impossible to do the backhoe, it's going to fall off. I mean, so, can't we require a tree spade?

MR. HUMPHREVILLE: Well, although I was accused of being a liar about talking to ah the other what's the other tree spading - - Archie - -

MS. STURGES: Did you identify yourself when you called him? Did you tell him who you - -

MR. HUMPHREVILLE: Of course I did! And – he - that was another discussion that we had. That he would absolutely not move a tree over 15 feet tall. And I brought that to their attention at their meeting then. And he said it wasn't because of his spade size necessarily but the ah the tree may have a root size that he could still spade but because he felt it was unsafe, and I was very frustrated with the fact that he was pushing that. So that's one of the reasons we did not – that's why I was pushing that, that we could not mandate that a tree spade – there may be, no matter how big the tree spade is, there may be trees that are going to be – if you're in the middle of a commercial building, they're going to be destroyed, but if the developer wants to spend the time and money to try to move that tree, is it better to just destroy the tree and call it gone? Or is it better to try to give it a shot to move it? And I think we're going to end up with more trees being moved by not mandating it in that respect.

MS. STURGES: I have a question. I – I can't visualize 15 feet, I've never been able to do that.

MR. LOMBARDO: Twice the doorway.

AUDIENCE: With a spade you can destroy a Joshua Tree. With a 40 inch spade – that's what Archie has. It's like pulling teeth, you can't use the same instrument. You've got to have the right instrument. You've got to have a bigger spade if you've got a bigger tree.

MR. HUMPHREVILLE: And the availability of that is pretty – I don't know what size Mr. Branning's tree spade is, but - -

MS. ROWE: Aren't there 96 inch ...

MR. HUMPHREVILLE: - - there's one and ah but, you know, I had that conversation with him and I brought that information here for that reason.

MR. LOMBARDO: I think we've kind of already reached consensus on not requiring a spade for that reason, that there are not a number of them in our area, they do work to encourage it, but we weren't going to require it because it was too much of a burden.

MR. HUMPHREVILLE: Yep.

MS. STURGES: Well also to there is the \$900.00 figure that you didn't - -

MR. HUMPHREVILLE: No, we didn't have a figure. We did not have a figure. He would not give me – I spent a half an hour on the phone with him at least and he would not give me an even average – what it was - -

MS. STURGES: No, no, no - -

MR. HUMPHREVILLE: - - what it was, I begged him for that.

MS. STURGES: Off the top of our head, no. Can – can we move a 15 foot tree with a backhoe?

MR. HUMPHREVILLE: Yes. You can move much larger trees than that. A backhoe – I don't know, I have never used a spade, so I don't know exactly the weight that – and I'm sure there's

smaller spades for smaller trees and bigger spades for bigger trees, but a backhoe will move a very, very large size tree. It really depends more on the branches and, you know, and the configuration of the tree also as to what the backhoe will move without tearing it up and the root size.

MS. STURGES: So eventually we will have a native plant expert that will be able to determine, by looking at the tree, looking at the soil conditions, looking at the time of year, and be able to say this has to be moved with such and such, such and such. Are we going to get to that point eventually?

MR. HUMPHREVILLE: I would imagine.

MS. STURGES: And then, is everybody okay?

MR. LOMBARDO: With enough information.

MS. STURGES: With enough information. Okay. So, would we all be open then to make an amendment, because see I'm concerned about this plant ordinance going into place and then if we don't come back and visit it for another 15 years. That's what's happened to the original ordinance.

MR. LOMBARDO: We need to get it in place, because right now, there is nothing. People are destroying trees - -

MR. HUMPHREVILLE: This four year process has allowed other subdivisions to come in with and, with the loopholes that you have said are there, and so uh dragging it out is doing the same thing.

MS. STURGES: And Staff says that they, um, did you take responsibility for the four years – I can't remember what you did or not.

MR. LOMBARDO: For the what?

MR. STUECKLE: No, the utopia of trying to do both at the same time.

MS. STURGES: Okay, okay, okay, okay. Um - -

MS. ROWE: Is it possible to open the public comment briefly back up because you guys have been - -

MR. STUECKLE: The Chairman can reopen the public hearing.

MR. LOMBARDO: I'd like to reopen the public hearing at this time. Is there any public comment that would like to be made at this time? Please step up, state our name.

MR. POIST: Yeah, my name is Lou Poist, in regards to the trees, I wondered if Apple Valley, Victorville, have done any studies as I was just listening to this whole conversation, and maybe some of those one to five year plantation estimates of survival are probably documented with, since we're not the only location with those types of trees if you're talking the Joshua or Yucca Tree. I just wanted to throw that out there.

MS. ROWE: Thank you.

MS. STURGES: Thank you.

MR. LOMBARDO: Anybody else?

MS. STURGES: Thank you, everybody, for staying here so long.

MALE SPEAKER (MIKE BRANNING): If I keep raising my hand out, I feel like a student waiting for the teacher, but, ah, in reference the tree spade, ah, Archie's tree spade is a 44 tree spade, as is mine, and that can safely move a tree up to around 12 to 14 feet. Trees beyond that point, there is a 94 inch tree spade, which is available, which can move up to a 20 foot Joshua Tree and as an example, we're going to be moving all of the Joshua Trees on the future Warren Vista shopping center project and in the past, a lot of the um determinations for large trees were going to be moved or not moved were left up to the discretion of the tree mover and the tree spade only could accommodate a certain size tree, everything beyond that was deemed unmovable and was destroyed, only because they didn't go out and seek a larger spade that was beyond their capacity, and so a lot of trees were destroyed that could have been saved ah, however, in the project that we're involved in, if my spade can't move a certain size tree, then I call in Horizon Tree Service and he has the 94 inch tree spade. So on the project that we're going to be moving on very soon, I think in the next couple of weeks, um it'll be both tree spades moving all the trees, I think it's what, 86 trees, and um again you know, can you move a 20 foot Joshua Tree with a 44 inch tree spade? The answer's no. You know, you'd be bare rooting it, whereas with a, and are there limitations with a tree spade? Yes there are. If the ground is extremely rocky, that will pretty much prohibit the tree spade as far as the plates going down into the ground and not real heavy rock, if you give it a good soaking, then the spade can go beyond rock, if it's really rocky soil, then you're basically looking at either ah destroying the tree or leaving it place or trying to use a backhoe to move it. Um, if the clay soil is real heavy caliche, ah there are some areas where the caliche is so hard it's like concrete. Even with water, you don't have good penetration of the water and the spade won't go down through that kind of soil, so you know there are limitations but very few. Are there any other questions while I'm up here?

MS. STURGES: I have a question, if I might. Um, 86 trees, that's really wonderful. How much time is it going to require to transplant 86 trees, because right now we only have a 30 day adoption period - -

MR. BRANNING: Mm-hmm.

MS. STURGES: Um, regardless of the number of trees, so I'm just wanting to hear, the 86 trees, and you have the two tree spades working -

MALE SPEAKER: Mm-hmm.

MS. STURGES: - - and how much time have you factored in for the removal of that?

MR. BRANNING: I've got three minutes. There's that three minute thing again. Ah, about three weeks.

MS. STURGES: Three weeks for 86 trees. Wow. That's remarkable. That's good. I - I had no idea. I mean, I didn't know that could be possible.

MR. BRANNING: And the average tree cost to move, to answer Tim's question which wasn't answered by Archie, is the average cost is between \$300 to \$400 for a 14 foot down size tree and ah the large ah 94 inch tree spade is \$425 to \$450 per tree. And when we move those trees, we move them from the Century Vintage project to the Pioneertown area for \$450.

MS. ROWE: Quick question. You say that the 94 inch is available. Is it available in the high desert? Or not?

MR. BRANNING: He's not from the high desert, but he's readily available, yes.

MS. ROWE: And is there an increased cost to the project to have him come up in addition to the per tree?

MR. BRANNING: No. That is, that is cost per tree, you know. Is it cost prohibitive for him to come up and move one or two trees? The answer is yes. You know, but, I ah usually will use Rick and I'll group him with either, like I was on this one project where he'll have several trees to move or we had another project, when we did the Mesquite 55 project, we had another project going on at the end of, when they were looking at um extending Santa Barbara, I forget what that is called, anyway we called Rick in and we combined both projects together ah and then he was up here and he was able to maintain that same price because we're doing both jobs at the same time. And like we all said, we also at my cost I moved a number of native Junipers, which are kind of deemed impossible to move, successfully, and I always felt that with the right size tree spade it could be done, and there were Junipers that were on the Mesquite 55 project that were set for destruction because they were a Juniper, and I paid to have those trees moved, ah Bill Warner has one on his property, and there are some that we moved to Pioneertown, and they're all successfully moved and no setback at all. So it can be done with the right kind of spade. And the right time of year. If you try to move a Juniper when the sap flow is flowing, which is basically March through the middle of December, then you will lose them, as you would a pine tree or any other kind of tree that you're trying to move. When sap flows down they're dormant, the same way you can buy a bare root rose or a bare root tree this time of year, you can also, not that you're bare rooting the Juniper, but you can, the sap flow is down and so they're dormant, and so they can take more abuse and moving than they can during when the sap flow is flowing and they're actually growing during that time of year.

MS. STURGES: And according to your radio station, they're developing the root structure, rather than putting energy in flowers and blooming.

MR. BRANNING: That's correct.

MS. STURGES: Thank you. That's great.

MR. BRANNING: Okay.

MR. HUMPHREVILLE: I think a good point that he made just now was the fact that he's moving 87 trees and we didn't mandate that they use a tree spade and, uh, you know, and like he said, there's also problems with places that tree spades won't work. But our ordinance as it's written is going to push people that way but not mandate it and there will be instances where mandating will cause nothing but problems because it can't be done that way. Oh, I'm sorry, I didn't --

MALE SPEAKER (RAMON MENDOSA): That's okay. We're having a discussion and I'm glad that we're doing it, because I think it's important. Um, when you get up to a tree that over 10 foot

and started branching, okay, you're looking at a plant that's over a thousand years old. It's part of our heritage here. Now, for \$400 to transplant that tree, it's nothing! I mean, you're looking at something that's equivalent to a 48 inch box, a 60 inch box, that's a valuable tree. Now when you get real, real big ones, yeah, you can move 'em, but you're gonna need a crane, you're gonna need a backhoe, and you're gonna have to have people that know how to take and keep the parent earth and what not and you're talking about some big money. So ah you get a big tree you also need to be sure that ah you have somebody out there that really does understand how to use a crate and a backhoe, because not everybody does, not everybody knows how to use a spade, as I've seen people damage roots ah with a spade, um, but I would prefer to see Joshua Trees planted with a spade, but when you get into a real big tree, you're gonna have to support the branches, you're gonna have to support the whole thing, and it gets pretty, pretty tricky. I would not move a big Joshua Tree at all. I would prefer to see it stay right where it is. We did that over at Kentucky Fried Chicken until somebody finally knocked the tree down. Thank you.

MS. STURGES: Thank you.

MR. LOMBARDO: Alright. Anybody else?

MS. ANDERSON: Yes, um, hi, my name is Cynthia Anderson, and I'm a new resident of Yucca Valley. I moved here in May of last year, and I just wanted to say it's the first meeting I've come to, I'm really impressed by everybody's demeanor and uh the feeling of respect in the room and so forth and I appreciate the process you're going through. I just wanted to give a perspective on, you know, my husband and I bought a house this last year and as we were looking around, um, you know, we absolutely avoided any lot that had been scraped. I mean, this, I don't know if you really are aware of what incredible resource you have in the beauty of these Joshua Trees and the native vegetation, I mean, um we actually did initially move to Joshua Tree and lived in a in a rental house that had been completely scraped, and couldn't wait to get out of there. And, ah, I mean, your, I love the comment that this gentleman made in the paper about, um, you know, this being a desert forest. I mean when you come up that hill and you see all these Joshua Trees and it's so amazingly beautiful. And that is part, a big part of the reason why we decided to move here. And, um, you know, I just wanted to put that out there for you. You know, I feel like you should be able to get religion about these Joshua Trees and this native vegetation is an incredible asset, I mean, if we couldn't have had that, in the home that we found, we wouldn't have moved here. So.

MS. STRUGES: Thank you, and welcome.

MR. LOMBARDO: Anybody else? Let's get this back to Commission. Are we in consensus to bring this back on March 9<sup>th</sup>? Is that right?

MS. STURGES: Mm-hmm.

MR. LOMBARDO: Okay.

MS. ROWE: Just a point of clarification, just make sure on stamped page 54, can we put in property owner instead of developer? And maybe Staff will put wording on voluntary reporting years out.

MR. LOMBARDO: I agree with that.

MS. STURGES: Then also, too, um, did we - - did we explore what is undisturbed? Because you know, I'm kind of goofy right now - -

MS. ROWE: I'm not sure I had a problem with the term undisturbed, but I wanted to offer you the the - - tell me what was your problem and then we can visit about it, because I'm not sure.

MR. HUMPHREVILLE: I was the one that brought up that and what I was - -

MS. ROWE: Oh, I'm sorry.

MR. HUMPHREVILLE: - - afraid was that if it's undisturbed, you can't take a piece of equipment in there to dig a hole to put the tree in or plant trees in, so undisturbed to me would be ungraded, but able to transplant the trees into.

MR. LOMBARDO: Yeah, you want it to be an area where you can transplant - -

MS. ROWE: Sure.

MR. LOMBARDO: - - into, so we need to figure out some wording that allows us to call it undisturbed, but use it as a receptacle for planting uh - -

MR. HUMPHREVILLE: You're going to have to take equipment into it in order to - -

MR. LOMBARDO: - - yeah, you're going to have to put equipment out which makes it disturbed. And when you dig a hole - -

MR. STUECKLE: Staff will return - we'll give that language our best shot.

MR. LOMBARDO: - - it becomes disturbed. Okay. Alright.

MS. STURGES: Okay. And then the other thing you're going to work on is the table, change that for lot size and for the size of the project. Okay.

MS. ROWE: Strictly for residential subdivisions. It should not affect in-fill or current residents, correct?

MR. LOMBARDO: Correct.

MS. ROWE: Okay.

MS. STURGES: And incentives will be provided for the in-fill?

MS. ROWE: The required education - -

MS. STURGES: Right.

MR. LOMBARDO: We need to get movin' . Can we set those to come back on March 9<sup>th</sup>, right?

MR. STUECKLE: The recommended action, and the Chairman can do this, is continue the public hearing to the Planning Commission meeting of March 9<sup>th</sup>.

MR. LOMBARDO: Okay. So we're going to continue this public hearing to March 9<sup>th</sup>.

Now moving on to department reports, before we do that, I'm sorry? Before we do Department Reports, there are some members of the audience that are being affected by some of the things that we are reviewing, for extensions of - - I'm sorry. You were from?

MR. STUECKLE: The individuals here this evening are from Rancho Mesa Homeowners Association. They are concerned about a future project that has not yet been scheduled for Planning Commission consideration.

LOMBARDO: Oh. Okay. I'm sorry.

MR. STUECKLE: That's not a problem. Not a problem.

## **DEPARTMENT REPORTS:**

### **3. EXTENSION OF TIME FOR CONDITIONAL USE PERMIT, CUP 05-07 MAGNUM STORAGE**

MR. LOMBARDO: I thought there was something on here that we wanted to move forward from. Um, okay, so let me start then here. Department Reports. Extension of time for Conditional Use Permit CUP 05-07 Magnum Storage. There is a request for a four year extension of time for the previously approved project to develop a mini storage facility consisting of 509 storage spaces in two phases, as well as an office on 4.4 acres. Parcel – Assessor's parcel number is 597-091-07 and 29. Anthony Bacarro is the Applicant. Can we have the Staff Report?

MR. KIRSCHMANN: Thank you, Commissioners. This project was originally approved February 19<sup>th</sup>, 2008, by the Planning Commission. Ah, the approval was for a 55 open RV ah storage space, there is 175 enclosed spaces in three buildings in Phase 1, 334 enclosed storage spaces in Phase 2. The project was located north of Sun Oro between Old Woman Springs Road and Canyon Road. The parcel numbers were already identified. Um, pursuant to Development Code section 83.010350, Staff is recommending a four year extension. Staff did this for three other projects back in November of '09. Um, these projects were approved with a two year life on them. The development code for conditional use permits actually gives three year approvals, um, so the reason why the four year extension is recommended is because to catch up for the one year that they should have, and the three year extension they're entitled to under the Development Code. Therefore, Staff is recommending that the Planning Commission approves the extension of time request for the four years, expiring February 19<sup>th</sup>, 2014. That concludes my Staff Report.

MR. LOMBARDO: Discussion?

MS. STURGES: Um, yes, I called Robert and spoke to him today because, um, I was trying to grapple with the four year extension, um, especially since in the letter they're only asking for a two year extension, but I understand where Staff is coming from. Um, we discussed this particular project because it really doesn't use a lot of water, but the water forum that the Joshua Tree conducted with BBK, Best Best & Krieger, brought up the fact that there's a lot of litigation on the horizon between a disconnect between the Town Planning Department in the High Desert and water districts for things like this. We uh extend it for four years and the will serve letter for water and uh water rights or water entitlements has been a disconnect in the past in other agencies in other towns and cities and I just think that, um, I'd like to see that we pay attention to that factor and see ah the letter that Robert mentioned to me is a generic letter the will served. It doesn't have any expiration date, it doesn't have any specifics as far as - - all they say is that if and when

this project comes to them, they would probably serve the water but that's also going to be tightened up ah coming down the road there's new ah laws that are going to give these letters a expiration date and they must be serving water in perpetuity, not in 20 years. So I just kind of want to use this as an example, you know, when we extend something for four years, that we make sure that everything else that's been put aside for the project is also on-board with that extension. I have no more comment.

MR. LOMBARDO: Okay. Any other comment?

MR. HUMPHREVILLE: When they give a will serve letter, ah, you have to buy a water meter in order to ah that preserves it. If you have a will serve letter, that doesn't - - they're not guaranteeing you the water with the will serve letter. They're saying they'll set a meter. You have to actually buy the meter.

MR. LOMBARDO: So it's not really in effect until they buy the meter.

MR. HUMPHREVILLE: Correct.

MR. LOMBARDO: Okay. So.

MS. STURGES: I I still think that the agencies need to - -

MR. LOMBARDO: Well, we'll consider that. Let's move forward on this. Is there - -

MS. ROWE: I make a motion that we extend ah approve the extension of time for CUP 05-07.

MS. STURGES: Second.

MR. LOMBARDO: Okay. All those in favor?

MULTIPLE SPEAKERS: Aye. (unanimous)

#### **4. EXTENSION OF TIME FOR SITE PLAN REVIEW, SPR 01-08 COURTYARD COMMERCIAL**

MR. LOMBARDO: Number 4 I believe is here. Extension of time for site plan review, SPR 01-08 Courtyard Commercial. A request for a two year extension of time for the previously approved project to add 1,900 square feet to an existing 5,417 square foot multi-tenant office building on .56 acre lot located at 7211 Joshua Drive. Applicant: Town of Yucca Valley. Representative: Town Staff. Go ahead, give us Staff Report please.

MR. KIRSCHMANN: Um, just for clarification, 7211 Joshua Lane, not Drive.

MR. LOMBARDO: Oh. It says Joshua Drive here.

MR. KIRSCHMANN: I apologize for that.

MR. LOMBARDO: Okay.

MR. KIRSCHMANN: The Planning Commission reviewed and approved this project after a meeting of March 4<sup>th</sup>, 2008. The project is for the addition of a 1,900 square foot um a 1,900 square foot addition to an existing 5,417 square foot office building. Um, this was approved by a site plan review. The site plan review ordinance is separate from the CUP as we discussed on the last item. They were very clear in that ordinance. Two years for the approval, two years for the extension. These issues ah, just so you know, have been resolved. Um, or will be resolved, ah, upon approval of developments standards, it will all be consistent, they will all be three years for approval, three years for extension. So once that is approved, those issues will be resolved. Um, the Applicant is requesting the two year extension of time and Staff would recommend the Planning Commission approve the extension request for two years, expiring March 4<sup>th</sup>, 2012.

MR. LOMBARDO: This is one way (*inaudible*).

MS. STURGES: I know, but right now we'll just (*inaudible*). We'll grant his extension and up to two years, not four years though. I know what you're saying. I know what you're saying. It would apply. But it's not within our jurisdiction right now.

MALE SPEAKER: As long as we're talking about it.

MS. STURGES: Okay. As long as we're talking about it.

MR. LOMBARDO: So I need a motion?

MS. STURGES: I'll move the extension of time for Site Plan Review SPR 01-08, The Courtyard Commercial, for two years.

MR. HUMPHREVILLE: Second.

MR. LOMBARDO: All those in favor?

MULTIPLE SPEAKERS: Aye. (unanimous)

MR. LOMBARDO: Carried.

## **5. PRIVATE LAND DEVELOPMENT ACTIVITY REPORT UPDATE INFORMATION REPORT**

MR. LOMBARDO: Number 5. Private land development activity report updated information report. A report on private land development projects within the Town of Yucca Valley. May I have the Staff Report please?

MR. STUECKLE: Yes, mayor – excuse me, Chairman and members of Commission. The report is before you. You've had the opportunity to review it and Staff would be happy to answer your questions.

MR. LOMBARDO: Okay.

MS. STURGES: He already had a big head.

MR. LOMBARDO: I need a recommendation that we have received and filed the report.

MS. ROWE: Looks great. I make a recommendation that we receive and file the report.

MR. HUMPHREVILLE: I'll second.

MR. LOMBARDO: All those in favor?

MULTIPLE SPEAKERS: Aye. (unanimous)

MR. LOMBARDO: Okay.

## **6. CONSENT AGENDA:**

Ah, recommendation that we adopt all listed items on the Consent Agenda and one motion that the Consent Agenda is proposed, routine, non-controversial items and business that will be adopted in the whole in one motion, unless a request is made by a Planning Commission member or a member of the public to remove a specific item. Is there any member of the public who wishes to comment on any of the Consent Agenda?

MR. LOMBARDO: Seeing none, Consent Agenda. I request that the Planning Commission approve the Minutes of the regular meeting held on February 9<sup>th</sup>, 2010. I have to excuse myself, because I was not there.

MS. STURGES: Ohh, I haven't – I haven't listened to the audio, so I'm going to recuse myself.

MS. ROWE: I'm very comfortable with reviewing the Minutes, so I make a motion that we approve the Consent Agenda.

MR HUMPHREVILLE: I'll second.

MR. LOMBARDO: All those in favor?

MULTIPLE SPEAKERS: 2 Aye. 1 Abstain

MR. LOMBARDO: I guess with that, it's going to (*inaudible*)?

MS. STURGES: Right.

MR. LOMBARDO: Okay.

## **STAFF REPORTS AND COMMENTS:**

MR. LOMBARDO: Staff Reports and Comments?

MR. STUECKLE: The only Staff Reports, thank you for allowing Staff to give a very lengthy presentation on your public hearing this evening, again it's a – it is a very important community-based issue in Yucca Valley, so thank you for affording us that time. If there are ever any questions about information that the Commission desires, please feel free to give us a call or ask. We'll be happy to provide any information that we have to the Commission. And then finally, as you're walking out this evening, Christine has some copies and materials for you as indicated in the Staff Report tonight related to hillside grading.

MR. LOMBARDO: Okay. Future Agenda items?

MS. STURGES: I have one question.

MR. LOMBARDO: Okay.

MS. STURGES: I know we both (*inaudible*). Okay. Really quick. On Burrtec. On the project listing. It says the status: application submitted February 3, 2010. Project under 30 day review. Who is reviewing it for 30 days and is it posted or public comment or what?

MR. STUECKLE: Ah, under State law, under the Permits Streamlining Act, public agencies that have land use control and authority um have 30 days from the time an application has been submitted to determine whether that application is complete. That is a Staff level function, and that 30 day period is established by State law.

MS. STURGES: Okay. So it is not a Public Comment period. Okay.

MR. STUECKLE: No, it's not.

MS. STURGES: I didn't understand that. Okay. I'm good. Thank you.

MR. STUECKLE: You're more than welcome.

#### **FUTURE AGENDA ITEMS:**

MR. LOMBARDO: Any future Agenda items?

MR. STUECKLE: Not off the top of my head this evening.

MR. LOMBARDO: Thank goodness. Okay. Commissioner Reports and Requests.

#### **COMMISSIONER REPORTS AND REQUESTS:**

MS. ROWE: I have nothing, other than to thank the public for hanging out with us this late and this long. Thank you.

Mr. LOMBARDO: Commissioner Sturges?

MS. STURGES: No, another time.

MR. LOMBARDO: And I have none. Alright.

MS. STURGES: Thank you, everybody.

**ANNOUNCEMENTS:**

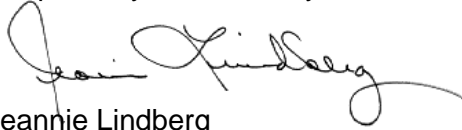
The next regular meeting of the Town of Yucca Valley Planning Commission will be held on Tuesday, March 9, 2010 at 7:00 p.m.

Good night. Thank you for staying.

**ADJOURN**

The meeting was adjourned at 10:35 pm

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Jeannie Lindberg". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jeannie Lindberg  
Administrative Assistant III