

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES**

MARCH 9, 2010

Chair Lombardo called the regular meeting of the Yucca Valley Planning Commission to order at 7:00 p.m.

SWEARING IN OF NEW PLANNING COMMISSION MEMBER:

Mike Alberg, recommended by Councilmember Neeb and appointed Planning Commissioner by the Town Council at the meeting of March 2, 2010, was sworn in by Deputy Town Clerk Jeannie Lindberg and took his seat with the Commission.

Commissioners present: Chair Robert Lombardo, Commissioners Mike Alberg, Tim Humphreville, Dawn Rowe and Margo Sturges

Chairman Lombardo led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Ms. Rowe moved that the Agenda be approved, which motion was seconded by Ms. Sturges and passed unanimously by voice vote.

PUBLIC COMMENTS:

Bill Horne of Yucca Valley commented on zero growth vs. over development and the problems of adequate water supply in Yucca Valley stating the Hi-Desert Water District is in violation of Court orders.

Ramon Mendoza commented the Town is the only agency with police powers so the Water District cannot enforce their ordinances. The Town and the Water District need a symbiotic relationship for enforcement.

David Fick of Joshua tree and member of MBCA and CIYV stated they have just made an agreement for a settlement with Walmart. That agreement includes a major study which includes a water assessment for Yucca Valley and in the future.

Ms. Sturges stated she spoke with Robin Kobaly who cannot attend this evening but did submit a letter to the Commission.

PUBLIC HEARINGS:

- 1. DEVELOPMENTS 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 -
CONTINUED FROM MEETING OF FEBRUARY 23, 2010**

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.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Robert Kirschmann presented the project discussion to the meeting stating this was discussed at the February 23rd Commission meeting. Several modifications were requested at that meeting.

Section 89.0106 (a) Regulated Desert Native Plant Removal Procedures for all New Residential Subdivisions was amended to add the following language: *The Planning Commission shall review and approve all native plant applications for residential subdivisions.*

Table 5 (Residential Subdivisions) was modified to provide clarification. The bolded/underlined words were added based upon the discussion of the Planning Commission at the meeting of February 23, 2010.

Proposed Lot Size	Required undisturbed area
Up to 2.49 acres	None required, incentives only
2.5 to 4.99 acres	A minimum of 5% of the <u>project site</u> shall remain undisturbed
5+ acres	A minimum of 10% of the <u>project site</u> shall remain undisturbed

Section 89.0106 (Single family Subdivisions) (h), (i) and (j) the word all was added to provide clarity that all deviations listed in the chart are allowed. Section 89.0107 (Infill/Existing Residences)(h), (i), and (j) the word all was added to provide clarity and the following language was added to Section 89.0107 (h),(i) and (j) requiring education: *...provide documentation that the applicant has attended educational training on native plants*

Section 89.0108 (Adoption Program) (d) had the following language added establishing the priority for adopting regulated desert native plants: *...In the adoption of Regulated Desert Native Plants first priority shall be within the Town of Yucca Valley and the second priority is the Morongo Basin. Section 89.0108 (Adoption Program) (e) had the following language added recommending that regulated desert native plants be moved only once:...It is strongly recommended by native plant experts that native plants be moved only once to ensure survivability.*

Section 89.0108 (Adoption Program) (h) was modified to change developer to property owner and the following language was added to encourage the property owner to provide a three and five year report: *In an effort for the Town to determine the results of the relocation of Regulated Desert Native Plants the property owner is encouraged to provide additional reports at a three and five year interval.*

Section 89.0108 (l)(1) was added to include the definitions of education and undisturbed area.

Education: The education component is required for any project proponent seeking the deviations in the specified tables. At a minimum the training shall consist of the following:

- (a) How to properly identify a healthy versus an unhealthy Regulated Desert Native Plant.*
- (b) The appropriate time of year for relocation of a Regulated Desert Native Plant.*
- (c) Proper post care of relocated Regulated Desert Native Plants to include both temporary location and ultimate location.*
- (d) Benefits of Regulated Desert Native Plants to the Community.*
- (e) Benefits of relocating a Regulated Desert Native Plant only once.*

Staff has modified the definition of Undisturbed Area and recommends the following:

That area of natural ground that has been or is proposed to remain unaltered through grading, cut and fill, removal of natural vegetation, placement of material, trenching or by any means that causes a change in the natural surface of the land or vegetation except to allow the access of construction vehicles necessary to relocate regulated desert native plants.

As discussed at the Planning Commission meeting of January 26, 2010 sections 89.0106 (j) and 89.0107 (j) were added to include the Hillside Reserve Land Use District. These are tables 8 and 12 in the draft.

At the Planning Commission Meeting of February 23, 2010, Ramon Mendoza requested changes to the native plant list. These proposed changes were given to Robin Kobaly for review and comment. Her letter is in front of the Commission this evening. Her suggested modifications include:

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|---|-----------------------|-----------------------------|
| • | <i>Jojoba</i> | <i>Simmondsia chinensis</i> |
| • | <i>Golden Cholla*</i> | <i>Opuntia acanthocarpa</i> |
| • | <i>Silver Cholla*</i> | <i>Opuntia echinocarpa</i> |
| • | <i>Pencil Cholla*</i> | <i>Opuntia ramoissima</i> |

** Over three feet in height*

On stamped 40, Section 89.0105 (f)(2), it was brought to staff's attention that there may be some confusion in that language. The section reads: "The tag shall be affixed in such a manner as to not harm the regulated desert native plant by perforation or other means (e.g. tied around the plant). The possible confusion is the language being interpreted to mean tied around the plant is unacceptable. If the Commission feels that is confusing, staff suggest the language: "An example of appropriate tag placement would be tied around the plant."

At the January 26, 2010 Planning Commission meeting a question was raised regarding Section 89.0302 Penalties (a) and the amount of the penalty. The ordinance is in line with the state approved bail amounts and the Town is unable to increase the amount.

At the Planning Commission Meeting of February 23, 2010 Staff presented the Planning Commission with the requested additions to the Purpose and Intent (Section 89.0101). Staff would like to make sure that the Planning Commission is comfortable with the language as proposed. The item was not discussed at that meeting.

The language added is as follows: To preserve valuable existing biological resources including Joshua Trees, Yucca plants, and other native plants occurring within the community and surrounding area. This intent and desire shall be balanced against the community's need for

growth and the development rights of individual property owners to achieve this preservation and protection while protecting both the property rights of property owners and the community's desert environment.

Deputy Town Manager Shane Stueckle commented General Plan Policy #6 within the Biological Resources Element says "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." Program 6A follows and states: "Enforcing the Town's Joshua tree removal permit process, also 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."

Based upon that policy guidance provided in the General Plan, the Town undertook an update or revisions to the Native Plant regulations. Contract staff was brought on board to assist in that process, a number of meetings were held, ultimately leading to a joint meeting of the Planning Commission and the Town Council on October 2, 2008. A couple of concerns brought us to the joint meeting. Three clear directives have been given by the Town Council about Development Code Regulations:

1. They should be easily understood by any reader
2. They contain clearly defined standards
3. They contain clearly defined outcomes and expectations

As staff was reviewing the Draft ordinance it was staff's opinion that neither the current regulations at that time nor the draft ordinance accomplished any of those three directives or goals.

Some of the policy questions that were raised and answered by both the Planning Commission and Town Council present at the October 2, 2008 meeting are still at the crux of the public debate of the set of regulations that is before the Commission this evening.

Staff would like to review some of the questions asked at that meeting. Specifically in regards to Commercial and Industrial projects, should a regulated native plant survey prepared by a native plant expert be required. Consensus at that meeting from the Council was that a survey is required but no expert is required.

The second question posed was, should all regulated native plants determined to be likely to survive transplanting be required to be transplanted either on or off site. The key word in that question was "all". Consensus of the Council was not "all" but try to save the major plants, Joshua trees and Yucca, and as many as possible of the others.

The third question had to do with the number of times a plant is relocated and the issue of survivability. The question posed was, should someone be limited to only transplanting one time. Consensus was that plants can be stockpiled and reincorporated back into the project design or transplanted out.

The fourth question was, should the ordinance require supervision and monitoring of the transplanting process by a native plant expert. Consensus of the Council was no. Should the ordinance require an annual report on health or the survival rate of transplanted regulated plants and for what period of time? Consensus was one annual report at the end of the first year should be required for commercial but not residential projects, and then only for those

transplanted within the Town boundaries. The Commission has continued to hold discussion on most if not all of these same policy questions.

Should the ordinance require a maintenance program by a native plant expert and for what time? Consensus was the same as for the previous question. Should the ordinance require the regulated native plant survey permit applications be reviewed by the Planning Commission as a segment of the project approval process? Consensus at that time was no. The Commission has continued to discuss that issue and has differentiated between commercial, industrial, multi-family and residential subdivisions.

Regarding transplanting off-site, should the ordinance allow both out of Town transplanting with first priority given to Town property owners? Mr. Kirschmann reviewed that language in the ordinance earlier this evening.

When there are regulated native plants on site that cannot, based upon a native plant expert survey, be transplanted or will not likely survive the transplanting process, talking about some of the large specimen trees, should the design of the project protect those plants in place? Consensus was that this cannot be accomplished on commercial development.

That joint meeting just started to discuss residential development when the meeting ended. The point I have been trying to make is that there are many divergent opinions on the direction the ordinance should take. A comparison would be to a sign ordinance which is one of those codes where it is likely not many people will be happy at the end of the process, from those strongly on the conservation and preservation side to those strongly on the side of private property rights and development and growth issues. The Commission has been doing an excellent job of facilitating that debate and taking all factors and public comment into consideration.

Thank you for letting staff discuss and refresh our memories this evening on the General Plan guidance and some of the policy direction given by the Town Council at that joint meeting.

Ms. Sturges stated the Planning Commission minutes are missing from the December 5, 2006 meeting when all of this started. The assignment at the time was to close the loopholes. Hogle-Ireland was brought on board to assist with the drafting of these ordinances. The draft Hogle-Ireland native plants and grading ordinances are in this packet. She is very disappointed that we are just now today having the opportunity to look at the Hogle-Ireland report. Many of the issues we are struggling with are addressed in that report on a professional basis and in accordance with our General Plan. Definitions and deviations from standards (P327) are provided. They gave performance standards (P327 & 328) and a rating to each plant based on whether or not it would survive or it could be transplanted with the highest priority ratings going to the ancients. Incentives were in there. We came up with incentives but we should have started out with a sliding scale. We should have started out with the Hogle Ireland ordinance. We paid over \$30,000 for it. We've had all this dithering and staff time when we had a blueprint to start from. She would like to know why the Commission is just seeing this draft now. She asked the Commissioners to turn to P318 where the sizes and species of Joshua trees and Yuccas were presented and each plant was rated. We never even talked about that. We have had musical chairs on the Commission and only Mr. Lombardo has been through the whole process.

Mr. Humphreville commented trenching for utilities should not be excluded from the "undisturbed" areas. Mr. Lombardo stated his understanding is the undisturbed area is in reference to incentives and is the total area to be left undisturbed. If there is a trench line

through it that area would be disturbed and would not be part of the 10% required for the incentive. Mr. Humphreville commented if we want to have boundary areas around developments yet we limit trenching we are limiting getting utilities. Mr. Lombardo replied he sees the point but does not think the two are exclusive. Ms. Sturges agreed with trenching as an exception to the rule for utilities. We can also transplant trees back into the area. Consensus of the Commission was to allow minor trenching for utilities through boundary areas.

Ms. Sturges asked if not allowing transplanting into retention basins was in the ordinance. Mr. Humphreville replied retention basins is grading. Mr. Kirschmann replied the ordinance does not address that issue. Mr. Lombardo commented it is common knowledge that you don't transplant Joshua trees into a retention basin. Ms. Sturges stated it should be spelled out. Mr. Humphreville said it would have a devastating impact on the trees. Mr. Kirschmann replied typically they are required to landscape around the retention basin and that's where the plants are located. Ms. Rowe commented in the educational incentives she believes that can be included and she has never seen a basin with plants in it. But she also hikes through washes and sees Joshua trees in them.

Ms. Rowe asked staff to clarify the purpose of this meeting tonight. Mr. Stueckle replied, as on any major policy issue, prior to the Commission completing its work especially with the extensive amount of public discussion on this matter, the purpose is to go back and revisit any of those issues that need to be revisited, changed or modified following public comment, provide any direction to staff that the Commission identifies for further changes and give direction to staff to bring those changes back for hopefully the last meeting. Ms. Rowe stated at which point the resolution and the minutes from the prior meeting will be presented allowing us one more time. She asked if Ms Sturges is comfortable with that process.

Ms. Sturges replied she is basically concerned about bringing Commissioner Alberg up to speed and discussing who is going to pay for the transplanting which is not defined. On P232 Mr. Huntington talks about the adoption glitch. Ms. Rowe stated we discussed at length, and it is not in the ordinance, to have a shared cost would be very difficult and if borne by the developer encourages transplantation back on site which is what we all think increases the survivability of the species. Ms. Sturges stated it would be nice to have it spelled out. Mr. Huntington point out it becomes expensive for whoever adopts one of these plants and proper care and use of the correct transplant tool is expensive and shouldn't the developer have to pay for that to make sure it's done.

Mr. Lombardo requested clarification that Ms. Sturges would rather have the developer pay than transplant them back on site. Ms. Sturges replied if they have plants that they are unable to transplant back on site that they pay for the adoption. Mr. Humphreville stated he believes that is part of the incentive of keeping the trees on the property. Mr. Lombardo stated if the developer doesn't have to pay it is an incentive to keep them. If he doesn't keep them then he has to pay to move them. But we also discussed the adoptee having some partial involvement so they value the trees and don't just let them die. Mr. Humphreville stated maybe part of that responsibility would be the report at 1, 3 and 5 year intervals. Ms. Sturges stated it is not in black and white.

Mr. Lombardo requested that the Commission discuss the issue now of who pays for the adoption, should the adoptee pay an application fee or other financial commitment. Mr. Humphreville restated if they are going to adopt the plant they should have the reporting responsibilities. The rest of it is an incentive to keep the trees on the property. The other Commissioners agreed. Mr. Lombardo restated the consensus as the developer pays for the

movement of adoptable trees that cannot be transplanted onto the site. The property owner who gets the adopted plant is responsible for a report after one year and reports after 3 and 5 years are recommended. In Town residents are given priority.

Mr. Kirschmann asked if this is for residential sub-divisions only. Mr. Lombardo stated the Commission had broken this into several different land use designation. When we discussed commercial/industrial we said there is very little undisturbed area but we encouraged undisturbed areas. Should we require all the trees on those lots be adopted out? That could be several hundred thousand dollars.

Ms. Rowe commented the question now is should the language be for commercial, industrial, multi-family, sub-divisions and in-fill. Should it pertain to all 3 sections of the ordinance? She suggests yes it should to keep it easily understood and clearly defined. And it also covers in-fill.

Mr. Kirschmann stated the current language states a 12 month report for relocation on the project site for desert native plants. Does the Commission wish to expand that to transplanted off-site as well? Mr. Lombardo replied that would be appropriate. This adoptee said they want to take the plant and they would become responsible for showing the city that it was transplanted properly and has survived the process. It is required that they do it for one year and recommended at 3 and 5. Mr. Humphreville stated they also have the information on watering and care and the builder/developer wouldn't. Ms. Rowe stated it also provides survivability information for different geographical locations within the Town and the Basin for the future.

Mr. Kirschmann confirmed that on P48 Section 89.0108 (h) Report Required will be revised to eliminate "on project site" and read: "Twelve months after the relocation of regulated desert native plants each individual property owner shall provide a report for all transplanted..." Mr. Lombardo said the adoptee or the developer if it's left on development site. Mr. Alberg suggested the addition of "or adoptee" after "Project site." Mr. Kirschmann stated we understand the Commissions direction and we'll work it that.

Ms. Rowe stated she likes the "Purpose and Intent."

Ms. Sturges asked the Commissioners to turn to P313, the Purpose and Intent drafted 02/26/07. From (f) on P313 & 314 she recommended that reference to scarce water resources be moved to the beginning. She requested that Mr. Lombardo read Section 89.0101 Purpose and Intent from P313 and 314 in its entirety. Mr. Lombardo read the section into the record as follows:

89.0101 Purpose and Intent

The Town finds that it is in the public interest to promote the continued health of the Town's abundant and diverse plant resources, by providing regulations and guidelines for the management of regulated native plants resources in the Town of Yucca Valley on property or combinations of property under private or public ownership for the following purposes:

- (A) To promote and sustain the health, vigor and productivity of plant life and aesthetic values within the Town through appropriate management techniques;
- (B) To conserve the native plant life heritage for the benefit of all, including future generations;
- (C) To protect native trees and plants from indiscriminate removal, and to regulate such activity;

- (D) To provide a uniform standard for appropriate removal of regulated native plants in public and private places and/or streets to promote conservation of these valuable natural resources;
- (E) To protect and maintain water productivity and quality in local watersheds;
- (F) To conserve scarce water resources by promoting water-efficient landscaping through the use of appropriate native plants which, once established, typically require less water than other species;
- (G) To promote microhabitats in urban areas for the conservation of wildlife by establishing new wildlife habitat and maintaining existing wildlife habitat;
- (H) To create larger, more connected plant populations, helping to ensure the future of native plant species by increasing their ability to migrate in response to changes in climate; and
- (I) To preserve habitats for rare, endangered and threatened plants and to conserve limited or otherwise natural communities and habitats.

It is the stated intent and desire of the Town of Yucca Valley to recognize and preserve native vegetation and the special contribution that Joshua Trees and Mojave Yuccas have made to the desert environment.

Further, while it is the intent and desire of the Town to preserve and protect all regulated native plants, the intent and desire of this chapter shall be balanced against the community's need for growth and the development rights of individual property owners. The Town desires that native plants be taken into consideration during the development design process and for developers and community members to collaborate on appropriate means of protecting native vegetation. The Town desires that Joshua Trees and Mojave Yuccas be left in their native location and to limit mass grading to preserve native vegetation. It is not the intent of the Town to render any land within the Town unusable but to carefully consider the interface between the natural desert environment and necessary and desired growth.

Ms. Sturges asked the Commission to turn to P35. Mr. Lombardo read the Purpose and Intent section from the current draft ordinance Section 89.0101 in its entirety into the record as follows:

89.0101 PURPOSE AND INTENT.

The purpose and intent of this Ordinance is to establish the standards, criteria, and permitting processes required for the retention in place, transplanting on or off-site, and removal of regulated desert native plants, and includes the following:

To establish and ensure consistency in the application of the standards, criteria, and permitting processes to all the properties within the same Zoning District;

To protect regulated desert native plants from indiscriminate removal and to regulate retention in place, transplanting on or off-site, and removal of all regulated desert native plants as identified in this Ordinance;

To promote and sustain, pursuant to the standards and criteria contained within this Ordinance, community character associated with the presence of the regulated desert native plants that exist within the community, and as identified within this Ordinance; and,

To preserve valuable existing biological resources, including Joshua Trees, Yucca plants, and other native plants occurring within the community and surrounding area.

This intent and desire shall be balanced against the community's need for growth and the development rights of individual property owners to achieve this preservation and protection while protecting both the property rights of property owners and the community's desert environment.

Mr. Lombardo requested discussion from the Commissioners.

Ms. Rowe referenced the directives that it be easily understood, clearly defined standards, this states it clearly and we're not getting into scarce water resources over which there could be public debate. The purpose and intent of this ordinance is to protect native plants and is clearly stated as it is written. Her concern was to balance that by our private property rights and the community's need to grow and develop and keep our unique character. It clearly states that without getting into all the nuances of the ordinance or other ordinances such as mass grading which is referenced and have their place in separate ordinances.

Ms. Sturges stated the new purpose and intent is sterile. She believes the previous ordinance is very educational and really likes the balance of the need for growth and development right of individual property owners. And then to continue on, we just stopped short, the Town desires that native plants be taken into consideration during the development design process or the developers and community members to collaborate on the appropriate means of protecting native vegetation. The Town desires that Joshua trees and Mojave Yuccas be left in a native location and to limit mass grading to present native vegetation. It is not the intent of the Town to render any land within the Town unusable but to carefully consider the interface between the natural desert environment and necessary and desired growth. This talks about balance and working together and that's what we need, to encourage it.

Mr. Humphreville stated the purpose and intent that we have is fine the way it is on P35. Mr. Alberg agreed stating the last line under purpose and intent is the same thing: balanced against the community's need for growth and the development rights of individual property owners. We have it covered there on P35. Mr. Lombardo asked if it is concise enough and covers in the shorter version on P35. Mr. Alberg replied yes, part of the process is to make this understandable but still be flexible in some areas and not be so exacting. This gives us a better option.

Ms. Sturges stated this comes from Hogle-Ireland in keeping with the General Plan which is our Constitution. Mr. Lombardo asked if she feels the purpose and intent on P35 is in conflict with the General Plan. Ms. Sturges stated she likes the purpose and intent on P35 but feels it is sterile and if this is going to be an education process, there is much more education obtained from the long version. It gives a better grasp of what we're trying to do.

Mr. Lombardo stated we need to reach consensus and we are 3 and 1 and requested additional discussion. Ms. Rowe stated if you want education we can hand someone the General Plan and it will take a week or two to get through it. At what point to we stop? We have an ordinance that is to protect native plants that is clearly and concisely defined here. This ordinance mandates more education by incentives and it will happen through that process unless we want to spend more money foolishly. This is simplistic and easily understood. To get into the nuances and what was read is much more detailed and exacting. This allows flexibility while being understandable. There will be an education that occurs even down to the in-fill level. It doesn't have to be spelled out in the purpose and intent.

Mr. Humphreville stated he is very happy with the purpose and intent we have. In studying the Hogle-Ireland material, we go far and beyond most if not all of what the communities in that study do right now in this new ordinance. He believes we have covered it. Mr. Alberg stated he sees opportunities for people to say you did this or you didn't do that. Conservers scarce water resources? That opens up a lot of argument.

Mr. Lombardo read the purpose and intent from the current Ordinance NO. 140 from P78 and 79 into the record as follows:

89.0101 Purpose.

The Town finds that it is in the public interest to promote the continued health of this Town's abundant and diverse plant resources, by providing regulations and guidelines for the management of the plant resources in the Town of Yucca Valley on property or combinations of property under private or public ownership for the following purposes:

- (a) To promote and sustain the health, vigor and productivity of plant life and aesthetic values within the Town through appropriate management techniques;
- (b) To conserve the native plant life heritage for the benefit of all, including future generations;
- (c) To protect native trees and plants from indiscriminate removal, and to regulate such activity;
- (d) To provide a uniform standard for appropriate removal of native trees and plants in public and private places and streets to promote conservation of these valuable natural resources;
- (e) To protect and maintain water productivity and quality in local watersheds;
- (f) To preserve habitats for rare, endangered and threatened plants and to conserve limited or otherwise natural communities and habitat.

89.0105 Intent.

It is the stated intent and desire of the Town of Yucca Valley to recognize and preserve native plants unique to Yucca Valley and the special contribution that Joshua Trees and Yuccas have made to this desert environment. In conformance with this recognition, no existing regulated native plant shall be disturbed, moved (transplanted or otherwise), removed or destroyed unless such disturbance, move, removal or destruction is first reviewed and approved by the Town of Yucca Valley. The Community Development Director, or his/her designee, shall be responsible for review and approval of any request to disturb, move (transplant or otherwise), remove or destroy any existing protected native plant located on any property in the Town of Yucca Valley. Forms for such review shall be available within the Planning Section of the Community Development Department.

Further, while it is the intent and desire of the Town to preserve and protect all Joshua Trees and Yuccas, this intent and desire shall be balanced against the community's need for growth and the development rights of individual property owners. To achieve this preservation and protection, while protecting both the property rights of property owners and the community's desert environment, anyone submitting an application to disturb, move, remove or destroy an existing Joshua Tree or Yucca shall use all reasonable means to retain and preserve such Tree(s) in its native (present) location in considering and presenting said Native Plant Permit application.

The Native Plant Permit application shall take into consideration lot configuration, potential property development (building envelope), onsite circulation and all associated and related infrastructure needed to support construction within the buildable envelope.

A person(s) submitting an application for a discretionary review or for any subdivision of land within the Town of Yucca Valley upon which protected native plants are present, shall use all reasonable means available to retain and preserve the plants in its native (present) location in considering and presenting said application or subdivision request with regard to lot location and configuration, potential property development (buildable envelope), circulation system and all associated and related infrastructure.

Consensus of the Commission was in favor of the draft Purpose and Intent on P35 was reached by a margin of 4 to 1, Ms. Sturges being in favor of the language beginning on P313.

Mr. Lombardo requested discussion of the changes made by staff since the last meeting stating he looked through them and is in agreement and they meet the discussion.

Ms. Sturges stated she had Ms. Rowe requesting in-fill, did that get covered, to clarify the incentives, undisturbed then also something requirement for in-fill. Has that been covered or discussed. Mr. Lombardo stated that was about asking in-fill properties, the property owner would be responsible for either transplanting on site or paying for adoption of all regulated native plants that can be adopted off the site. Ms. Rowe stated she believed it pertained to requiring education for all to make it consistent across the board. Mr. Lombardo stated we were in agreement with that.

Ms. Rowe stated the additions are good. Consensus was that the changes made after the discussion at the prior meeting are appropriate.

Mr. Kirschmann requested discussion of the suggested changes to the list of protected plants. Mr. Lombardo requested and received confirmation that these suggested changes are in addition to the current list. The suggested additions are Jojoba (*Simmondsia chinensis*) and, if over three feet tall, Golden Cholla (*Opuntia acanthocarpa*), Silver Cholla (*Opuntia echinocarpa*) and Pencil Cholla (*Opuntia ramoissima*).

Ms. Rowe stated Mr. Mendoza provided input specifically on Jojoba at the last meeting and Robin Kobaly recommends these plants be added. Mr. Humphreville stated he does not believe any type of Cholla should be added to the list where transplantation is required. It is easily grown and has never before been mentioned as an endangered plant.

Ms. Rowe commented she would like to see Jojoba but agrees on the Cholla. It could be part of the education process and the incentive, especially if it is that easy to transplant there is no reason to regulate it.

Ms. Sturges stated she would like to see the other suggested changes including the Cholla over three feet in height for the cactus wrens.

Mr. Lombardo stated he is mixed on this one. He sees Cholla having a high potential for danger to the inhabitants of the lot if it is left in large quantities. He understands that cactus wrens will only nest in certain types of Cholla over a certain height. He does not know how old a 3 foot high Cholla would be.

Mr. Humphreville commented we would be subjecting homeowners to illegal removal without a permit. Over many conversations with Ms. Kobaly, Cholla were never brought up. We have already gone way overboard compared to other studies according to Hogle-Ireland.

Ms. Sturges stated during her conversation today, Ms. Kobaly stated there are other species but she did not want the list to be too long and the list should stick to those that are vital. We're not doing mesquite or cat's claw or others.

Mr. Lombardo stated it would also be an unfair burden on the property owners to have to transplant every living thing on the property. It would be expensive and we're doing this for in-fill homes also.

After further discussion of lot size and potential cost, consensus of the Commission (3-1-1) was to add only the Jojoba to the plant to list. Ms. Sturges voted to also include Cholla, Mr. Alberg abstained. Mr. Lombardo agreed that the discussion could be reopened in the future.

Mr. Kirschmann requested discussion regarding the suggested addition of "An example of appropriate tag placement would be tied around the plant" to the Section 89.0105 (f)(2) Regulated Desert Native Plant Tags. Unanimous consensus of the Commission was to add the language for clarification.

Mr. Lombardo opened the hearing to public comments.

Cynthia Anderson of Yucca Valley commented she was misquoted in a newspaper article about the last Commission meeting. She did not praise the Commission for its dedication to preserving the beauty of the area. She said she thought it was time the Commission got religion about protecting Joshua trees and other native vegetation. A lot that has not been scraped is more desirable than one that has been scraped. The proposal you are discussing is grading lot line to lot line followed by replanting according to the specified percentages. With 5% replanted the rest of the lot will still be blank. The net effect is denuding the natural landscape which is unattractive.

Isaac Hagerman of Yucca Valley, addressing Ms. Sturges, stated her lack of technical knowledge is frightening. The suggestion that not planting in retention basins be put in the ordinance is embarrassing. Furthermore for her to call out staff and show her disappointment should be done privately not publicly. That is why he is now addressing her with his disappointment. We can come up with a reasonable ordinance. He is not saying grade lot to lot or that the ancient plants should take precedence over his property or kids. He can't believe we are discussing if Cholla can be removed. If you want to look at Cholla go out to the Monument where there is an abundance of them.

Mike Branning of Yucca Valley stated he agrees with the Purpose and Intent. He has confusion with the Purpose and yet it is ok to clear cut 2.49 acres and less. It's going in the right direction but there needs to be some intervention from people in the field to help aid the panel. He submitted a letter to the Commission which he hopes will be reviewed. It is difficult to save a Cholla in a landscape, the purpose of mentioning them is that the cactus wren only nests in something 3 feet or higher. In the long term when you look at urban sprawl developing we will be limiting the availability of the cactus wren to breed and survive. But it's debatable.

Tom O'Kee of Joshua tree stated this is a gateway community and the Commission is in charge of what will happen here. He is disappointed that the Commission didn't have information in

front of it when you made these discussions. Everyone in the Morongo Basin is affected by this Town. He has moved over 500 trees and he has 18 trees still standing. Many of them were tree spaded. There is no standard or science that understands this process thoroughly and the Commission doesn't either based on his observations tonight. The experts who express opinions don't seem to get listened to.

Stephanie Weigel if Joshua tree stated she works throughout the Morongo Basin as the regional land use planner for the Morongo Basin Open Space Group (MBOSG). The Town is a member of the MBOSG and it is a collaborative planning forum that came together in 2006 to plan for long term development and conservation here. They are working together in what they call a basin wise approach to protect what we value as we plan for growth here. Through outreach and public meetings they ask people what they value about living and visiting here. People often mention the rural desert character and quality of life. From that information they have developed a set of regional conservation planning goals to reflect those values. She is speaking tonight in favor of an ordinance that supports those planning goals which reflect community input and desires for making good decisions about where and how we grow in the basin. Some of the goals include maintaining the identity of communities through buffers and separators, enhancing the ability of both the Park and the Base to fulfill their missions, maintaining water quality and quantity throughout the basin in part by protecting the natural processes that allow infiltration through native ground cover, supporting economic development including tourism and protecting the values that people moved here to experience and come here to enjoy, protecting habitat and wildlife corridors that allow native species to live and roam and developing a system of regional trails that connect open spaces.

Each of these goals has a component that is supported by the stewardship of our native plants, both the iconic species discussed tonight such as Joshua trees as well as other desert plants that protect the unique qualities that exist as part of our desert landscape. The Open Space Group is not opposed to development. When local decision makers find that a project is of merit the Group does desire, however, to see our backyards developed in ways that respect our setting and unique qualities that citizens and visitors value. Local development codes and standards play a large part in determining the ways we act as stewards towards local landscapes. She encourages the adoption of a native plant ordinance that allows Yucca Valley development to proceed while respecting the benefits and services provided by retaining native plants in our backyard.

David Mahaffey of Yucca Valley stated he is in favor of what's going on because the community needs this quorum to come together in favor of a process that will make this area a statewide award center and attract worldwide attention. This will bring us green credits through the state and Congress which will be important. We need a new ingenuity and construction favorable to both sides. If Chollas are removed he hopes that caution is taken for cactus wren nests and the plants are not removed before the eggs have hatched.

Ramon Mendoza of Yucca Valley commented a lot of the discussion has been about grading when it should have been about protecting native plants. In this community we haven't learned a whole lot since 1991. We had deep infrastructure problems then and we're getting better. The General Plan should be studied by each of the Commissioners. He is very disappointed in the way this plan has developed. Without understanding we are saying this plant is dangerous. No one ever died from a Cholla. The native plant ordinance is being ruined. The spade is a good tool if you know how to use it. He has seen backhoes used successfully but mostly they are just knocking them down. The only right we have is to buy property. It is a privilege to build.

Jim Jobe of Yucca Valley stated his main concern is to maintain the ecosystem. He enjoys the Joshua trees. We are on a positive guiding step and he wants to preserve the plants for his grandchildren. He wants to keep the yucca in the logo.

Debi Shealey of Yucca Valley stated she is here because the study Ms. Sturges brought up supports the general plan. The new language is a way for development to circumvent what is already there. It is opening rather than closing loopholes. They just graded out the corner of Balsa at SR62. The trees are there waiting for the Commission to make a decision on the language. The Commission is changing the General Plan and changing the language opens it up for the builders to be able to say it's in the building footprint I can take it all out. Adoption or keeping the plants should be considered. Everything being put forth says just toss it and pay for it. That is what she is seeing on that corner. Mom and Pop businesses go into established places. This is big development and money and carte blanche for the developer. When it says fair, she asks by whose standards.

David Fick stated "balance and all available means" is pretty empty. If the Commission had started with the Hogle-Ireland draft 3 years ago you would have been done with this. He forward by email documents from Joshua Tree National Park ("JTNP") regarding its protocol for plant salvage. They have data to demonstrate an 80% survival rate. They move trees up to 35 feet and it costs \$1,000. Ancients are not untouchable and can be moved not destroyed. Spading should be required on anything over 6 feet and is 8 times more effective than bare rooting. Incentives should not be on set-backs but the cash price on Joshua Trees. Make them twice as expensive as they are to move. He prefers the purpose and intent that Ms. Sturges supported.

Bill Horne of Yucca Valley commented we do not have 30,000 acre feet of water in reserves which is untrue. He presented a copy of recharge figures to the Commissioners, a copy of which is preserved in the meeting file, and discussed his figures.

Jim Jobe of Yucca Valley recommended having a professional plant expert present during transplant of all native trees, removal, management and replacement. Plants should only be moved once. A spade is a good idea and should be in the language as shall and not may.

Tom O'Kee of Joshua tree regarding the 3 and 5 year review, stated you won't see anything change after 1 year. It takes 4 years to know if a Joshua tree may or may not survive. Who is going to do the oversight and review of these thousands of plants, what will the analysis say, who will look at it and how will it relate to the rest of the program? Just saying people have to accept responsibility for these plants might scare them away. People have expressed disappointment that they aren't notified when plants are available and going to be moved. No one is tracking or analyzing the outcome and success of the plants that people paid a lot of money to move. Who is responsible for the dead trees? How are we going to manage the oversight?

Mr. Lombardo closed the hearing to public comments and recessed the meeting at 9:05 pm for a short break.

Mr. Lombardo reconvened the meeting at 9:20 pm.

Ms. Sturges commented the protocol from JTNP is interesting and may come under education. They match the plant size to the method of removal and the tools used. We need a desert native plant expert to make that determination for survivability. We need to look at the 85%

success rate. She clarified that a catch basin is a large hole in the ground like at Home Depot. A retention basin is a shallow pit on a property. The City of Hesperia uses special inspectors not native plant experts which could be a way to get around the issue. We need the expert's opinion and advice to make this work. And the question about who is going to gather the data is a good point.

Mr. Lombardo replied his interpretation is that because we lack the information now we need to gather it and determination will be made in the future as to how we modify what we are trying to accomplish based on statistical data and scientific facts. He is in favor of anything that will increase the survivability success rate. We need to find a way to do it by incentivising the person developing the property to do that.

Ms. Sturges stated Hesperia has an ordinance that says "at least 50% of the transplantable trees and plants shall be adopted or the remaining numbers below that percentage shall be purchased at \$350 per transplantable tree."

Mr. Lombardo stated that is a great idea and we ought to start looking at how other people are doing it, that's the idea of getting comparisons from other cities. We've come so far with what we've done it is hard to just start all over from scratch again.

Mr. Stueckle commented, regarding discussions this evening, copies of the minutes of the December 5, 2006 meeting are contained in two places in the meeting packet on P242 and P367. Regarding discussion of the first native plant ordinance prepared under contract by Hogle-Ireland, there were quotes from the Purpose & Intent section and discussions of definitions. Staff would point out that the Planning Commission at that time said they did not like that ordinance and gave direction to both Town staff and consultants to revise that ordinance on at least three occasions, as seen from the meeting of February 5, 2008 the Commissions discussion in the minutes on P204. The draft referred to tonight as the Hogle-Ireland ordinance did not just disappear or fall off the radar screen. The Commission in place at that time said unacceptable and it needs to be modified. At the end of that meeting on February 8, 2008 Planning Commission requested a joint meeting with Town Council asking for explicit direction from the Town Council on how to proceed with the ordinance because of the divergent opinions about the ordinance. That is how it has gotten to this point. This ordinance is very similar to a Sign ordinance. At the end of the day "ain't" nobody happy. That is the purpose of the public dialogue and walking through these critical issues.

Mr. Lombardo commented what we need to get accomplished is decide to continue it or hammer it out some more.

Mr. Humphreville Commented Mr. Stueckle made a great point that after the 15th meeting, or whatever this is, nobody is going to be happy. We hear from such a small group of people here, but he hears for many, many people by phone. There is a wide range of areas and we have tried to have a balanced, clear understandable, easy to read ordinance. He believes we have done that and he is open to any suggestion but after all of these meetings he hasn't heard much that has not been discussed. Other than who pays for the transplanting which was discussed tonight. He had Robin Kobaly and people from Pioneertown at his home to get input from a native plant expert. He doesn't see new information coming.

Ms. Rowe commented she doesn't see there is much more to battle through. She would like to see staff make the changes and corrections from tonight and bring back a resolution mentioned

in the staff report for the Commission to fine tune any last things. And hopefully we can ratify that and send it to Council at the next meeting.

Ms. Sturges stated Commissioner Alberg did not have the benefit of all the previous discussions. This ordinance shortens the adoption period from 60 days to 30 days. If we could do something with a sliding scale people would think we worked on a compromise rather than just chopping it in half. During that discussion we said that if there were a lot of trees they would have 60 days, if less trees then fewer days. It was a sliding scale based on the number of trees to be adopted. On P182, to the question should all regulated native plants that were determined to be likely to survive transplanting procedures be required to be transplanted either on or off site, they came up with a consensus of not "all". Everyone to a person said we can't do 100%. But they said "most". Mr. Goodpaster said 100% is not possible, we should set a longer adoption period and make them more readily available. At a later meeting Mr. Goodpaster stated we decided 30 days was long enough and asked Mr. McKoy if he was good with that. Mr. McKoy said I guess so. I brought up the sliding scale and Mr. McKoy said that kind of sounds ok. We have incentives for the builders. What are we giving back to the people concerned about saving the Joshua trees? If we can readdress that we can say we are looking out for everyone concerned and coming to the middle.

Mr. Lombardo stated, in all fairness, part of the discussion when we were talking about length of adoption, was also that we started the process of adopting out earlier on. It only runs 30 days after a certain point; it actually started before that point. The intention was that 30 days should be sufficient time for a person interested in having a tree to get it from one place to another. It is the least burden on the property owner to not hold up the project. Each month of delay can cost thousands of dollars. We could end up with no development at all due to the cost of these regulations.

Ms. Sturges questioned how it comes across to the public. A sliding scale would be less time, trying to find a middle ground.

Mr. Lombardo replied the incentive is for the developer to move as many of the trees as quickly as possible off the property to adoptees. 60 days doesn't make the plants any more available, just more expensive.

Mr. Humphreville commented at the last meeting Mr. Branning told us he was in the process of moving 87 trees and said it would take 3 weeks. Mr. Lombardo stated that was a lot of trees in a doable amount of time. There is nothing to say that it can't go longer, it's only required to be 30 days.

Mr. Alberg asked if the 30 days started when the permit is pulled. Mr. Kirschmann replied the current draft contains a 30 day notification/signage period. Once the permit has been approved then there is a 30 day adoption period.

Mr. Alberg requested and received confirmation that there is nothing to stop the developer from getting the list of people who want to adopt and setting that up before so they can move forward. But it has to be posted for a minimum of 30 days.

Mr. Lombardo commented that's why we came up with shortening it to 30 days because there is actually more time to plan from the time the sign goes up.

Mr. Alberg stated as he reads the staff recommendation for tonight it's because staff needs more time to complete the minutes from February 23rd and to complete the resolution and negative declaration. Mr. Stueckle replied yes, that staff thinks it is important on this issue that the Commission has all the minutes before it before taking final action.

Ms. Rowe questioned the appropriate motion. Mr. Stueckle replied the question is whether to continue the public hearing if you want to take further public testimony or close the public hearing and just continue Commission deliberations.

Ms. Sturges moved to continue the public hearing to the meeting of April 13, 2009. The motion was seconded by Ms. Rowe and passed unanimously by voice vote.

Ms. Sturges requested that the minutes of the February 23rd meeting be distributed to the Commission as soon as possible.

Mr. Lombardo reported he will not be able to attend the Commission meeting on March 23, 2010. Ms. Rowe asked if there are agenda items for the March 23rd meeting. Mr. Stueckle replied the General Plan annual report is scheduled for that meeting and staff recommends that a meeting be held.

Ms. Rowe asked if the discussion of the Hillside Grading ordinance could be continued to a later meeting also. Mr. Stueckle replied staff would suggest that the full Commission be present for that discussion as well.

DISCUSSION ITEMS:

2. HILLSIDE GRADING ORDINANCE AND NON-HILLSIDE GRADING ORDINANCES

A request that the Commission begins the discussion of a Hillside Grading Ordinance and a Non-Hillside Grading Ordinance.

Mr. Stueckle stated that by looking at the hour he does not know how much progress can be made this evening and the Commission may want to consider continuing this item at its discretion.

Ms. Rowe asked which ordinance would the Commission be considering. Mr. Stueckle replied the Commission is at the very early stages of any ordinance. He does not believe the prior Commissions had any significant on going policy discussion on the matter. Ms. Rowe noted that they have ordinances from both 2007 and 2008.

Mr. Stueckle replied staff just wanted to be certain that the Commission had all the previous drafts that were exchanged between staff and the consulting firm. The Commission may want to consider, based upon what has occurred with the native plant discussion, before it goes very far with the Hillside discussion. It may be appropriate for Council direction to be given since we do not at this time have any specific direction outside of the General Plan policies.

Mr. Lombardo opened the discussion to public comments.

Mike Branning of Yucca Valley commented he sees hillsides that are scraped and spoiled. They ruin the landscape. It would be nice to see if those tailings could be removed, not just pushed over the side, not only for aesthetics but also for preservation of the landscape.

David Fick of Joshua tree stated the over-burden that they push off the little road they are making shouldn't be done. He knows it is more costly to remove the dirt and rocks. The hill above Desert Christ Church was illegally desecrated and there should be steep fines for that.

Ms. Rowe moved that the item be tabled until after direction is received from the Town Council. The motion was seconded by Ms. Sturges and passed unanimously by voice vote.

STAFF REPORTS AND COMMENTS: None

FUTURE AGENDA ITEMS:

Mr. Kirschmann reported that the General Plan annual update and the project report would be on the next agenda.

COMMISSIONER REPORTS AND REQUESTS:

Mr. Alberg thanked the rest of the Commissioners for an interesting first meeting.

Mr. Humphreville stated he has a problem with part of the agreement reached on the Walmart project. He is afraid that allowing environmental groups to have the right to endorse initiatives that restrict or prohibit new discount super stores in the Town will have a long term affect. The Commission will need to look at that for future ordinances.

Ms. Sturges asked if there was anything in the grading or plant ordinance that prohibits a developer/builder from digging a pit and pushing the Joshua trees into the pit and covering it up. Mr. Stueckle replied buried vegetation on site including regulated plants is probably in violation of Town ordinances. If there was no permit for the removal of native plants it would be in violation of the native plant ordinance. It may or may not be a violation of the uniform building codes regulations depending on the grading.

Ms. Rowe asked if we know if Walmart has a tenant for the existing building. Mr. Stueckle replied no. Ms. Rowe requested and received confirmation that the AM/PM project includes the ARCO station and the Sonic Burger and that the same owner owns the new and existing ARCO stations. She asked what will happen to the existing ARCO when the new one opens. Mr. Stueckle replied from the information we have been given the existing site will be demoed and a restriction will be placed on the property that it cannot be used as an automobile fueling station at any point in the future and the property will be put up for sale.

Ms. Rowe asked if the existing station would be allowed to sit vacant on the highway. Mr. Stueckle replied the land use approvals for the new site are totally separate from the existing site. Staff would have to review the County approvals and Conditions of Approval that were given on the existing location.

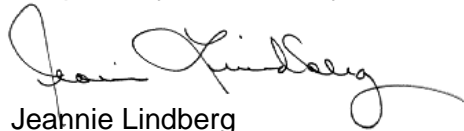
ANNOUNCEMENTS:

Mr. Lombardo announced that the next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, March 23, 2010.

ADJOURNMENT

The meeting adjourned at 9:55 p,

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Jeannie Lindberg", with a long, sweeping flourish extending to the right.

Jeannie Lindberg
Administrative Assistant III