

County sticks to deadline for comp plan

Citizens' advisory committee told it has no legal status, authority

BY ANNE ADAMS • STAFF WRITER

MONTEREY — Members of the citizens' advisory group charged with reviewing Highland's comprehensive plan were already upset by the recent move by supervisors to set a deadline for completing the task.

Monday, in a special called meeting, the board took a different tack, which appears only to have further angered some of the committee members.

On advice from county attorney Melissa Dowd, supervisors adopted a resolution directing the planning commission to meet the Dec. 31 deadline for giving the board its recommendations on any comprehensive plan amendments.

"There's been so much misinformation and misunderstanding," Dowd told the board, explaining that neither the planners nor the board of supervisors seems to grasp what the comprehensive plan review requires.

Because the plan is central in at least two lawsuits against the county, she said, she and Greg Haley, another attorney hired by the county as it delved into issues surrounding the proposed wind energy plant, decided something must be in writing to make sure everyone involved is on the same page. "The sooner we can get a comprehensive plan in place the better off we are from a litigation standpoint," she said.

Dowd explained what state law says about comprehensive plans. According to code, they must be reviewed every five years by local planning commissions. It is the planners' job to determine whether it is advisable to amend the plan. "It does not say (planners) have to completely revise the plan," she said, although some localities do so every year.

Further, she said, state law does not say what happens if a locality does not review the plan as directed. Dowd recommended, however, that the county do what it needs to in order to comply with the law. "You do need a planning commission recommendation as to whether it's advisable to amend the plan," she said. "There is no requirement to appoint a committee, and no requirement to rewrite the plan."

Highland's current plan, 1999-2004, is overdue for a review, though the advisory committee has been meeting monthly for more than a year to complete one.

Dowd said she could not find any record of the advisory committee being officially appointed by governing officials to do the job. Consequently, she said, it seems the county "jumped the gun."

In her opinion, she said, there seems to be a lot of confusion both from the planning commission and from the public as to what the citizens' group role is at this point.

The board of supervisors is, ultimately, the deciding body to adopt the plan as recommended by planners. She said supervisors should give planners the Dec. 31 deadline, and then let them decide how to meet it, and whether they will recommend changes.

"If it needs to be rewritten, that's a multi-year task, but it's not the intent of the law," Dowd said.

Once recommendations are made by planners, both supervisors and the Monterey Town Council can either accept those changes or not. "If the planning commission says it should be rewritten, then they should suggest (some changes) to amend now, and get a consultant for the rest of the process," she said. "They may come back to you guys and say we don't recommend you amend the plan at all."

Dowd recently met in closed session with planners about their role, and the commission asked that Dowd, building official Jim Whitelaw, and county administrator Roberta Lambert pull together recommendations and information for the commission to use in deciding on plan amendments. She said the three of them will look at what sections in the plan have caused difficulty in the last five years. "We're better able to cut through issues that haven't worked well," Dowd said. "It will be the planning commission's job to figure out how they want to use the citizens' advisory committee, or not, but the citizens' committee was never authorized by the board of supervisors or the planning commission. It's not in anyone's minutes."

Supervisor Jerry Rexrode expressed concerns about leaving the plan unamended. "It really needs a good bit of work, I think," he said.

But Dowd said it was "not in the county's best interest (to rewrite the plan) because of the litigation. That's really a major, major, multi-year task."

"But these people (the committee) were asked for their input," Rexrode said.

Dowd said she anticipated the planners would make some effort to do something to the plan, and hold a public hearing on any proposed amendments. "I come off sounding really blunt, but this loosely formed group is not authorized to do anything for Highland County, nor were any duties delegated to it ... They can meet forever and ever if they want, and give their recommendations. I'm just saying they haven't been given any authority to

do something."

Rexrode said he understood the pending lawsuits had a lot to do with the situation. "Sometimes boards have to make difficult decisions," he said. "And through this whole process of the county being sued, it's been one of the best learning experiences I've ever had. Comprehensive plans are more challenged in the courts all the time. We've got issues here that need to be addressed and no matter how we do it, it has to be done legal."

"There's just no legal status of this citizens' group," Dowd added. "But I'm not saying to tell them you don't care what they've done ... and the board of supervisors and the planning commission can't tell the citizens' group what to do ... you have no authority to tell the committee what to do."

Rexrode said if there's been any confusion, the supervisors are to blame. "If mistakes have been made in this, it's with these three board members."

The citizens' advisory group chair Caroline Smith attended the meeting. If the group had no authority on the county's behalf, she asked, "then why have we been doing this?"

Rexrode said he understood it has been "done out of community spirit," as the committee members are all volunteers.

Smith described the amount of time the members have given to the review. "I believe we thought we were rewriting the plan," she said. "I guess no one asked who are we, and what are we doing."

None present Monday could exactly recall how the committee was formed in August 2004, though it was generally agreed the planning commission, with some advice from supervisors, had decided a committee should be formed.

"We do get bills from the planning commission for this work," Rexrode said.

"That's why we thought we were official," Smith replied. "We understood we served at the pleasure of the planning commission."

"But you weren't appointed," Dowd said. "If you were, I can't find it."

Supervisor Robin Sullenberger said while he understood the need to finish the plan's review, "I want to make it very clear I welcome your input, even if it may be somewhat unofficial."

Rexrode agreed. "It bothers me people have worked so hard. I want to see your ideas, and move forward," he told Smith.

After a closed session, the board voted to send a letter to all members of the citizens' committee explaining the current circumstances and thanking them for their work.

The letter, sent from Lambert, explains the board's resolution, and says, "Unfortunately, no one can recall exactly how the comprehensive plan review committee got started. The board of supervisors may have discussed putting such a committee together, and the minutes of the planning commission from 2004 indicate that certain volunteers were going to meet with Darryl Crawford and a member of the planning commission to talk about the (plan). However, no vote was ever recorded officially establishing a committee to report to the planning commission ... At this point, you are certainly free to continue to meet, but the planning commission shall proceed as it determines appropriate." Lambert concludes by inviting committee members to send their thoughts about the plan in writing to planners, town council members, and/or supervisors.

Smith said later some of the members are looking into the way the group had been established to see under whose authority they came into existence.

The Recorder reported on the initial organizational meeting in the Sept. 3, 2004 issue.

At the meeting, Lisa Kodger was elected chair; Caroline Smith, vice chair; and Aaron Marshall, secretary.

Kodger had told the committee members gathered that planners could have chosen to accept the current plan as-is and recommend no changes, but they "saw it needs some work" and asked for a thorough review.

The committee was described as having been appointed by county officials, and at the initial meeting, The Recorder reported, "County administrator Roberta Lambert, a committee member, reminded those attending that as a committee appointed by county officials, their meetings are open to the public and subject to Freedom of Information Act laws."

Members also agreed at the time to review each chapter of the plan, and estimated it would be a 12-month process.

At this point, Smith said she intended to keep the group's scheduled meeting date for Wednesday, May 17 at 6:30 p.m. at The Highland Center, in hopes members can come to some agreement on what to do with themselves and the research and recommendations they've pulled together so far. The committee may or may not decide to continue its work.