

MINUTES

1. CALL TO ORDER

Chair Mike McHugh called the meeting to order at 7:00 p.m. Members present: Richard Hoard, Dan Frasier, Diana Stewart, Graham Matthews and Mike McHugh. Staff present: Director Richard Tippet, Deputy Director Leslie Hubbard, Deputy County Counsel Joe Larmour, Environmental Compliance Specialist David Colebeck and Assistant Planner Bella Hedtke.

2. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendized for a future meeting. No action may be taken on these matters at this meeting.

Comments received from Justin Hawkins, Darrel Davis, John Brower, Everett Harvey and Sam Brinkley.

Chair McHugh asked staff if there is any thought to education and change in the process, CEQA changes, the way the State handles any of that, to get the word out, or how has that been handled? Deputy Director Hubbard responded we are trying to get all the documents on line that describe the process in detail, and we are finding out it is somewhat of a detailed process, and we want to make that guidance material clear, so there is some on line right now and we're adding to it and should have it on. We've been progressively adding to it, there's about five things that we have altogether that describe what that process is. Three are on line right now and another two will be posted by close of business tomorrow, that describe what the process is.

Chair McHugh said it sounds like the process is changing, will it describe what's changed, why it changed maybe, is there something like that to explain what's going on? Counsel Larmour responded he doesn't think there is the ability for staff to put on a training or an education session on CEQA. He thinks the process may be able to be outlined in a little bit clearer format, and it sounds like that's their intent by posting the documents on line and hopefully that will clear up some of the questions. If it doesn't, it may be a workshop could be scheduled on, but again, the answers to the questions about the process... Chair McHugh stated he thinks it's the process confusion, it sounds like it will be documented on line. He said another thing to be clear, the Planning Commission doesn't define the process, it's the land use underlying the ordinance is what this Commission looks at. How the applications are processed inside Planning, that's not a Planning Commission function. We can't tell them, you've got to do it differently, that's not the way it works.

3. MINUTES – December 13, 2018, January 10, 2019 and January 17, 2019.

On motion of Commissioner Matthews, seconded by Commissioner Stewart, approves Minutes of December 13, 2018 as submitted. Motion carried unanimously.

On motion of Commissioner Matthews, seconded by Commissioner Hoard, approves Minutes of January 10, 2019 as submitted. Motion carried 4 to 1, with Commissioner Frasier abstaining.

On motion of Commissioner Hoard, seconded by Commissioner Stewart, approves Minutes of January 17, 2019 as submitted. Motion carried unanimously.

OLD BUSINESS – None

NEW BUSINESS

4. **PROPOSED AMENDMENT TO ZONING ORDINANCE FOR A MORATORIUM ON MASS GRADING**

PW-19-01

Public Hearing: Proposed Amendment to Zoning Ordinance No. 315 for a Moratorium on Mass Grading in Trinity County. Located county-wide. Applicant: Trinity County Planning.

Deputy Director Hubbard first introduced David Colebeck, Environmental Compliance Specialist in the Department of Transportation. She said he, Rick Tippett, County Engineer Andy Pence, and she have been working together on this. The Board asked that Planning Department come up with a grading ordinance over a year ago, and with workload and limited staff, we had not been able to get that done. Hubbard said the moratorium that we are proposing this evening on mass grading is an inherent step to getting a complete grading ordinance done. It's a moratorium on mass grading, large areas or large volume. As defined in this ordinance, we are considering mass grading be over 20,000 sq. ft. or greater than 800 cubic yards. She said David will give some examples of what is and what isn't covered by this.

David Colebeck presented the staff report. He stated it was about a year ago this was last before the Commission for an MND as a DOT project. This has been in the works for some time, the discussion has been going on for years. For decades the County has been talking about the need for a grading ordinance and this is our first step now to producing one. It is specifically targeted at mass grading as described in the staff report and the ordinance itself. He said he would like to first point out that it is targeted at a certain square footage or a certain cubic yardage, so we were intending for the biggest projects really to be impacted by this ordinance; but there are also a number of exemptions available that are located within the ordinance itself on Page 8 of your packet, Exemptions under Section 1.4. He said our intent that if the grading project has a Director's Use Permit or a Conditional Use Permit and that project is over the threshold, 800 cubic yards, then it is essentially exempt. It has gone through a ministerial process where it has been reviewed and it has been determined that protections are in place, that the project will be adequate. He said beyond that, and there are a number of items here, including County agencies, utilities, trenching for septic, that are reviewed by County agencies, mining operations, timber operations, fire breaks, parcel maps, subdivision maps, all of which are going through agency reviews. Existing roads is listed under K, if a road already existing it will not be considered mass grading because it is not disturbing as much raw soil, new soil, as a new road would be. Fire protection, with some constraints about the ability to cut vertically or fill vertically above two foot; and most importantly, he wanted to point out Exemption M for agricultural practices, again the variable two-foot limit is set, if you are grading greater than two feet then it should be reviewed through the Director's Use Permit process. Colebeck said if the project is covered by "best management practices", such as Stormwater Pollution Prevention Plan that has been developed by a qualified individual, QSD, then that would also be exempt. There are quite a number of exemptions that are meant to allow projects to proceed, unless again they have reached those specific thresholds that we define as mass grading. He stated we quickly put together a packet for you that shows examples, these are just a group of photos that we put together just as examples, many of these are related to cannabis projects, agricultural projects; that was not the intent to focus specifically on cannabis, but honestly, because inspections are being made on that type of grading activity with the standard permit process through the Cannabis Program, they were easily available photos.

He then reviewed the first photo, stating it shows excavation of a pond in a flat area that would more than likely, and again this is more than likely, he's not going to claim anything specific about any of

these photos, would reach both thresholds of greater than 20,000 sq. ft., and with the soil disturbance, greater than 800 cu. yd. volume of material needed. The second photo shows the how depth of cutting in an access road and a building pad which is an agricultural project as you can tell by the intent there, but it is cut greater than two feet, two vertical feet, and it's filled greater than two vertical feet. Third photo, again it shows greater than 20,000 sq. ft., but it begins to highlight some of the concerns we have about mass grading. Potentially uncompacted fill on steep slopes, this picture does not show any sensitive biological areas below it, it doesn't show any houses or infrastructure, but with activities like this occurring, there is a real concern with the County that there is a public hazard created, a hazard to the environment was created, unstable slopes that can potentially erode, gully [inaudible] and cause sedimentation to local water courses. He said on the fourth page, similar conditions of terracing with potentially uncompacted fill cases, potentially unstable slopes, without any [inaudible] in place. He went on to the fifth photo, stating this is just a lacerative of the type of condition that we would be looking at. Photo 6 is the square footage area, it's not much bigger than 20,000 sq. ft. which is roughly a half an acre. He said this particular photo, because this site is apparently an agricultural activity, you would have to have some assurance that it is actually on a flat area. There's a chance that this particular site was not actually graded below two feet, so it could qualify as an exemption, but the intent of this is, if you were grading more than that square footage and you could be cutting on any part of the property greater than two feet, then you should just check with us to get a Director's Use Permit if necessary. Photo 7, again, uncompacted fill base over vegetation, which assures that it could not be properly compacted in one foot [inaudible] or to other construction standard infill. Photo 8 is a potential site for expansion, which shows the depths of some potential cuts if this site were to be graded out to reach the 20,000 sq. ft. area threshold, then the cut that would be required would potentially be unstable, again construction standards could be worked with cut as a maximum and this would far exceed that type of stability factor. He said he wanted to point out that on Photos 9 and 10, this is an existing road and on a County road such as this one here, an Encroachment Permit would have been required, that's already an agency review, it would have been drawn and reviewed by Department of Transportation and the plans kept, so this would be exempt. If this was a private road, it would be exempt as well, because its an existing road that doesn't require mass grading, but if it's greater than 20,000 sq. ft. then it could be an issue of concern. One example might be 13-foot wide is longer than 1,500 feet long, it is going to reach that threshold. Photo 9 shows some of the sensitive habitat that could be involved in these types of projects and Photo 10 would show, again the potential for side castings and management of vegetation. He said in the staff report on Page 3 there is a list of examples, which again are just meant to be lacerative, we could go all day thinking about how these actually come into play, but we tried to give a snapshot of what would be most likely and how this would play out.

Commissioner Stewart said moratorium to her seems to means totally stop and that is not what this is. If she read it correctly, this puts the brakes on slowly and check with somebody and if it's okay then you can go ahead with your project. She asked is that in fact the case? Mr. Colebeck responded that is a way to characterize it, but he would point you to further in the ordinance itself where it says if the ordinance is violated, if the moratorium is not held to, then there are penalties that are subscribed to that situation. Stewart said absolutely, she understood that completely, but like she said, a moratorium to her means that nobody can do it under any circumstances, it's stopped and that is not what this is. Colebeck responded you are allowing this to move forward only with the proper [inaudible].

Commissioner Matthews asked if there is a process where someone could apply for a Director's Use Permit for grading, by itself, as opposed to any other reason, whether it was a 3-acre conversion to build a house or an agricultural operation or whatever, is there a process? Colebeck responded this would create the process. The Director's Use Permit is an established procedure. Matthews asked so now there will be one for grading? Colebeck responded in the affirmative.

Chair McHugh said he was confused. What the language here says is the moratorium prohibits all

grading activities in the unincorporated area of Trinity County, including underground excavations, and so on, and it applies to A and B, 800 cubic feet or 20,000 square feet, and then there is a list of exemptions, but no where does it come back and say, oh yeah beyond that, you can apply for a Director's Use Permit and have a specific project outside the exemptions approved. Commissioner Matthews said isn't that 4.A, any project that obtains a Director's Use Permit, it doesn't say what the process is but. Chair McHugh asked is that what that says? Colebeck responded if you have obtained a Director's Use Permit then you are exempt, because it would have gone through a review process like we just spoke about; also, C, any function that requires a Director's or Conditional Use Permit is also exempt. If you obtain one, you are exempt, and if you are required to obtain one and you do obtain one, then you are exempt. Chair McHugh said okay so any project that obtains a Director's Use Permit, which you could get specifically to do for grading? Colebeck responded yes.

Commissioner Frasier said he had one question, or clarification he thinks it would be, and asked Mr. Colebeck when you were talking about the picture, #10 showing an existing road and grading, you said that could be an issue if it's over 20,000 sq. ft., would that only inherit that pertains to new roads, that 13.3 feet wide and 1,500 feet length as new roads and you were associating it with an existing road when you were going through the pictures, is it going to cover both or is the existing road exempt no matter what? Colebeck apologized for the confusion. He said the intention is that you could create a new road under this if it is less than the 20,000 sq. ft. threshold. So, say you are on a ranch, you have flat land and you're looking to install a fence and you are looking to build a road so you have access to the entirety of that fence, that's permissible because it's an agricultural process for one, and you're not grading lower than two feet; but, however, if you do build a road and you cut into a hillside to do it then you would be cutting into something greater than two feet, and that is something we would want to check for safety and water quality issues. Commissioner Frasier said he doesn't think there is anywhere in Trinity County you can build 1,500 feet of road without two feet of cut. Colebeck stated what this is intended to do, is if you do intend to create a road like that, but the impacts are minor, then it allows discretion within the Director's Use Permit process to have conditions or the lack of conditions on that project itself. So, it's situationally based, where if you come in with a plan and the procedures that will be developed and show that this project really has minimal impact, it's greater than the threshold, it has minimal impact, we will check that and assure that is true, and then it can be confirmed with minimal conditions. However, if you come in with a plan that shows you actually really are grading significantly for this type of road or grading more significantly than the site plan initially says, or that you are next to a watercourse that is particularly sensitive for some reason, or the BMPs are not in place that would protect that watercourse, we would then add conditions to that to assure that watercourse is protected and to assure those slopes are stable and that it's been constructed correctly. However, to continue to build the road without this permit, that is where a violation would occur.

Commissioner Hoard stated he had a question as well, so under a Director's Use Permit or a Conditional Use Permit any number of projects could go forward, now what is the standard for approval for this, based on specific codes? To explain himself, anyone can come and say I need to do this specific project and I need Director's approval, or if it comes to the Planning Commission under a Conditional Use Permit; usually if it comes as a Conditional Use Permit, we have our Zoning Ordinance, the General Plan, we have a whole list of documents we refer to, and decide if this is applicable or not applicable, does it adhere to standards now, what are our standards; because as Commissioner Stewart said, a moratorium would shut it down, this kind of leads to well we can go forward with these projects, but what do we adhere to, what do we refer to, what is the basis for this? Colebeck responded the basis is the ordinance itself, and the Zoning Ordinance. Commissioner Hoard said he was sorry, but in terms of technicality, because there's a lot of technicality when it comes to... Colebeck responded the procedures are something that we have begun to develop and that would include a checklist that has all the information that we would require of any applicant for this permit, so that we know we are standardizing the information that we are requesting and we are standardizing the format that we are

using, so that we can evaluate the project as best as we are able to. He said those procedures are being worked out now, including fee schedules, including checklist, assurances and all that, so that would be presented to the Commission if it were available at the moment, but to be honest it's not in final form. He said we have been looking at a number of different counties that have similar types of checklists that standardize the application process, more than the Director's Use Permit has already standardized, so any applicant would know what we are looking for and know what would be required.

Commissioner Stewart said assuming we recommend to that this ordinance be adopted to the Board of Supervisors and assuming the Board agrees and they voted to make it an ordinance and it has a second reading and it was still voted to go ahead with it, will you have all of that in place by then? Colebeck responded yes, that is the intent, absolutely. It was presented as an urgency ordinance, but it's taking the time to come to the Planning Commission, taking the time for the second reading in front of the Board, yes, we are well on our way to developing those procedures, but like he said they are not finalized, today, but yes, understanding that timeline, we would be able to work that out.

Commissioner Matthews stated then it gets back to why this is called a moratorium, they're basically establishing a grading process, right? I mean that's what you're saying, by the time the second reading occurs a process will be in place. Commissioner Stewart agreed stating and it's no longer a moratorium. Colebeck added it's really intended to stop projects from happening. We have been seeing, as described in the staff report, quite a bit of grading over the wet season, given the number of State laws that have come down that essentially have intensified the need to grade during those time periods. But to be honest, the grading situation in the wet season has happened for a number of years, so we began this process by really trying to stop what we saw as an impending harm to the environment. He said yes, he understands the confusion about the word, but we also needed to create a way to move forward. We needed to create a way for people to continue to operate with projects that need to occur, but to do it in a legitimate way that has checks and balances. So, it's a moratorium to stop mass grading, but also a way for projects to proceed.

Counsel Larmour stated just as an explanation, this is a moratorium to prevent the unchecked grading, but its not uncommon for a moratorium to have exemptions to allow projects to move forward; so, it is overall a moratorium, and then you have a section of exemptions which provide some checks and balances to unregulated grading until the process can be completed and a complete ordinance put forward.

Chair McHugh said he thinks it's a fair characterization of it. Commissioner Matthews' last point about if you are going to establish standards for a Director's Use Permit to allow grading to happen, even in the context of a moratorium, you are effectively establishing a grading ordinance. And so you are certainly going to have to characterize that as a temporary set of standards under which you are going to allow, but somehow the standards under Paragraph A that allow a Director's Use Permit to be issued, should also be in the spirit of the moratorium, somewhat restrictive, where you have simply implemented a lot of words and focus one paragraph on go there, and find out what the standards are for a grading permit, that's a grading ordinance. Counsel Larmour said he thinks that the ultimate flushed out grading ordinance is coming and he thinks that the ordinance at this point, points out that the Director or whoever does the review of this is going to implement Best Management Practices, that may not have been used in an untethered system. So, the moratorium is just a chance for checks and balances until a complete ordinance, which would have all the data and information, a checklist like you were talking about, so ultimately trying to prevent harm in the interim while they complete the ordinance. Chair McHugh said he gets that, but not sure if he answered his question.

Chair opened the hearing to public comment.

Comments received from Kate Blanchard of California Department of Fish & Wildlife, Sam Brinkley, Casen Grady of North Coast Regional Water Quality Control Board, Chris Cross, John Brower and Everett Harvey.

No further comments being received, Chair closed public comment period.

Commissioner Matthews asked if staff can clarify some of the agency comments, like there was discussion about CDF&W wanting changes in the enforcement section, can staff respond to their suggestion? Mr. Colebeck responded from where he sits that is a valid point to be made. It wasn't the intention of the whereas or the structure of this to put any of the elements back on to State agencies, specifically for the enforcement of the ordinance the County has adopted. So, he understands the criticism they are pointing out in that particular section where it could be worded differently, but there is a section however in the staff report on Page 2, fourth paragraph down, it basically highlights that State agencies are not actually able to get to all of the issues within the county because they are, if from the State their offices are located outside of the county, so the [inaudible] to actually regulate its own grading policy. He said he just wanted to acknowledge that we had considered their point of view or their statement. Commissioner Matthews said so you are saying that the language under 3, handwritten Page 12, where it says "The Public Works Director will notify the appropriate state agency and assume the position of responsible agency until such time as the appropriate state agency(ies) assumes authority to deal with the activity." You're interpreting that to mean you are going to take responsibility and if they aren't able to deal with it, the County is going to see what ever enforcement that needs to be done? Is that how this is going to work? Obviously, the ordinance has enforcement and penalties and fines and various things to deter people from doing illegal activities. Colebeck responded he understand his point, but he would say it wasn't meant to be worded [inaudible] authority back to the State, that we would actually give up our responsibility underneath the ordinance that is hopefully adopted here He said he thinks the intent of that particular paragraph was to say we wouldn't wait for the State to take action, we would take action as the lead agency and continue to operate within the ordinance and whatever penalties, fines or violations that we see fit given the structure, and that they could come in and take their own action. He believes that's the intent. Chair McHugh commented if that's the intent maybe tweak the wording to get closer to his suggestion.

Chair McHugh stated the issue of the size of the moratorium trigger of 800 cubic yards came up a couple of times and asked if Commissioners had comments on it, being the threshold of the moratorium. Commissioner Hoard said his question for staff is where did this threshold come from? Why 800 cubic yards, as we heard comments from the public that Humboldt County has 250 cubic yards, just out of curiosity. Colebeck responded it's a number that we had worked amongst ourselves in the definition of mass grading, in looking at the most problematic sites that were moving the most material, we were trying to find a way to quantify that as what the real problem was. He said this is not intended to be a grading program, it's not intended to deal with a lower threshold that would get down to 50 cubic yards, or 80, or what any of the other counties have been able to do, whether that be housing, whatever issues they are dealing with. That would be more of a program, programmatic type approach where you have tiers, you have status, you are dealing with those relatively small amounts in particular location for a particular reason. The reason that we stuck with 800 cubic yards was because that would allow some operations to occur, it would include some heavy equipment operations that would be for whatever purpose, be that building a home, cutting a pad, access roads, subdivision, any type of heavy equipment activity, but once we set that threshold, then we would want to look at it because it's a mass grading situation. He said it was a number they went back and forth on and we settled on this one. He said he could change that to 250 if that's what the Commission and Board want, but he would like to reiterate that the more likely threshold is going to be the 20,000 sq. ft. That is going to be triggered more often, but that threshold still allows for grading activities, it still allows the development of the site, any particular site, no matter what the vertical cut is, as long as you don't get to 800 cubic yards. You can

still operate, you can still proceed to clear your land, have access roads and still do 3-acre conversions as long as you're not cutting and filling more than is required for the removal of trees, without going through the DUP process first.

Commissioner Frasier asked how will the County know when that threshold has been reached. If somebody doesn't apply for the DUP and just goes and creates a new flat, how will the ordinance be enforced? He said to him the initial problem was with the out of control marijuana that moved in, not the legal guys, but the gorilla grows, if you want to call it that, none of them went through any permitting process and they still wouldn't go through any permitting process, so to him, it's another after the fact issue where you're not preventing anything, it's just you can find somebody after the problem has occurred. That would be his problem with it, are we actually going to stop the bad operators, or are we only going to slow down the guys that are actually trying to do their job right and go through the process correctly. Colebeck responded there's two questions in there that he heard, the second one being stopping the bad apples, essentially using the [inaudible] in this case and that's related to the fines that are associated with violations of the ordinance. We set that limit at \$500 a day just because we understand that grading is one of the particular situations where its very difficult to remedy; to go back and replace that landscape as it was before, to dig out and recompact some fill spaces can turn out to be very time consuming and costly and almost just as disruptive as the original activity itself. To prevent an activity like this, that's what the violations structure is meant to do, make sure it's publicized, it's known, and that if people are not sure if this applies to them or not, to have that process for the DOT open to anybody to understand how they are measuring their project and whether this would apply or not. He said for the second question, how will we know if a violation had actually occurred, in terms of square footage, the 20,000 is relatively easy to manage in terms of land disturbed. The 800 cu. yds. are a little more difficult, if you are dealing with areas that are terraced, that are heavily sloped and the topography is difficult, but they are field survey techniques, not licensed survey techniques, that would allow staff to go out and actually determine in approximation of how much soil was actually moved to begin with, and that would be a measurement of the cut and the fill. He said it's similar in some ways to mine inspection operations where if you're certified to inspect the mines or reclamation plan or general operations and being able to assess fill material, volume, cut sizes and slopes, there are field techniques that are available to determine an approximate total cubic yardage.

Commissioner Stewart asked but how will you identify the fact that a violation has occurred? Will you be sending people out, will it be complaint driven, will you be doing aerial photographs? It's a big county, how will you know? Colebeck responded at this time it would be primarily complaint driven, because of course we don't have any staff, or if we think there are access rights to a property for inspection for this type of ordinance, but the need to go there in the first place would more than likely dealt with by a complaint. If there was another mechism, it would be through a grading program where if you are doing any grading at all, that's one reason the limit would be set at 50 cubic yards, because any grading at all, you would have to go through the grading program process. That is something we don't have at the moment, again, this is designed not as a program, but just as a moratorium on the lowest percentage of projects that are out there that have the most amount of soil. So, again it would be complaint driven and being able to do anything else would be built off a program structure.

Chair McHugh said one comment came up a couple of times having to do with the time it takes to get the permits, and related to that was the impacts on the dirt moving industry contractors. He said he would like hear you to comment on the issue of the time it takes to get a permit, particularly if there is are recent examples on getting things through the process. If it takes too long to get a permit and the project needs to keep moving it will in effect be a complete moratorium. Colebeck responded he understands his concerns regarding that, he understands Chris Cross because he's worked very hard over a number of years and one project, he worked with him on, he did a very good job. This is not designed or intended to put contractors or heavy equipment operators out of work, but it is designed to show that

there needs to be some checks and balances for the process that is occurring in the field on the ground right now. Typically, if you are going to go through a larger grading operation there are going to be a number of agencies involved and as Chris had stated in his comments, there's going to be a lot of people looking over your shoulder. This isn't intended to add an unwarranted layer of complexity to the process for an individual operation, but is intended for the County to be able to take ownership of those activities and to be able to have a say in what is going on for the biggest projects. He said again typically for a large project there is quite a long period of design, you're going to be working on those plans for a while, honestly and you're going to go through any number of checks and balances. Colebeck stated to the point of whether the County is going to become another bottleneck in that process, again, that is not the intent, but we will rely on our procedures and how those are developed, so that is the intent behind the checklist that we have already initiated and already started to put forth. He said there was a sheet held up here about the Humboldt process and what that could look like. The quality of information that we would get, that we would require to make a decision on the County's side would be incumbent on the applicant to put together an application that would actually work well. So, there is some leniency involved here, we can work with people as quickly as possible and see that the information we're getting is put together correctly and precisely in a way that we can work quickly, then he doesn't know that this would be as big a bottleneck as is the concern to this. He said understand, the burden on the Planning Department, he understands that, he works in DOT on decomposed granite permits, which is already an existing ordinance, those have not been held up by any means; encroachment permits is almost a daily process in our department, and this type of procedure would probably take some interplay with the engineers who understand what kind of project they're looking at. The procedures haven't been built up to know exactly how that work would be divided up, but that would be the very next step.

Commissioner Stewart asked if it's fair to say that because you are really looking at the largest projects, that the volume would not be huge which would assist Planning to get the response out quickly? Colebeck responded correct, that's the intent, we would be dealing with relatively low percentage of the overall grading projects in the County. The exemptions are meant to show that, if you have a Timber Harvest Plan you're exempt, if you're in a mine you're exempt, because you are already overseen by the County as lead agency for mines, for example, and state law, SMARA laws, etc., there are restoration plans that are already in place for these types of operations, fuel breaks are already controlled basically by CalFire, state agencies, with some County oversight where encroachments are concerned, whatever jurisdiction is appropriate, given Fish and Wildlife's comments earlier. This is meant to be the smaller portion of the pie. Commissioner Matthews said but in part, any project that is regulated in any other way is exempt, right? Colebeck responded correct, but he would say these are not regulated by the County at this time, that's what we're looking for. Chair McHugh said and any project can proceed if it gets a Director's Use Permit where the conditions of BMPs will be applied? Colebeck responded correct.

Chair McHugh said there was a question by the Water Quality Board about the agricultural grading and how the limits clause applies to Paragraph M, so the exemption if it's more than 2 feet, then you're back to 800 cubic yards and 20,000 sq. ft., more than 2 feet of elevation, if it's less than 2 feet of elevation they don't apply. Colebeck responded it's an exemption that allows... if you are on flat land essentially then you are allowed to grade, and one consideration we had was a vineyard operation, a hay field, something like that, that would generally require grading over a large area, in terms of plowing, ditches, drainage; the idea is that they are following the natural contour of the land so you're not creating a sedimentation source that is excessive, so you could grade a lot if you were to stay below the 2 foot cut threshold. The assumption here is that in these low-lying areas that they are prone to agriculture, or they are not prone to heavy degradation of any of the natural resources or watercourse or anything like that. However, if you are in a steep area, steep terrain, which he understands we have quite a bit of in the county, that is where construction standards would typically apply in terms of cut and fill, in

compaction, soil stabilization, again resource protection, where there needs to be options instead of BMPs that are designed specifically to stabilize soil so that it doesn't create a public safety hazard or disturb any other critical resource. That, in our minds, was a logical step, that it is really sort geared toward the steep country, terracing, large cuts, large flat surfaces that are leading directly into watercourses, where again, based on hydrology, water picks up speed, it increases erosional force. That is the intent. So, large scale grading for agricultural purposes while following the contour of the land, you can do quite a bit.

Commissioner Matthews asked if someone is obtaining a permit from the regional board for the development of a commercial cannabis operation, this wouldn't apply to them, right, because it's another governmental agency that has their own regulatory framework? Colebeck responded it would still apply, if you go over the threshold.

Director Tippet said just two things, there's a couple of things I want to add. First of all, yes, David was right, the plans are for the most part going to be processed through Engineering, because it's engineers that have the proper licensing to check the data and verify the erosion control that's established. Most of his engineers are QSDs, so they have the ability to check those plans and give him a report, though it resides over in Engineering. Tippet said there was a question about what were the references or what are the standards that we hold to, and that was outlined in Section 8, which is the one where it listed "Hazards" and essentially, they're are not necessarily quantified, but he's been with multiple jurisdictions where they have these rules and they will say so much dirt, but what he's learned over time is when you pull up to the violator, it's not a question about violations, it's very, very obvious, that you have an issue and none of those, those are the sources or projects that we're trying to target through this moratorium. It is the ones that create the issue or create the disturbance that are so excessive that it needs to be mitigated right away. And another way that it would be noticed also, is we have cannabis inspection programs and what will happen is people make observations and see that unchecked grading is going on somewhere and they know that there is no plan with that and we will follow through and red tag it and then there's other requirements if that property is red tagged and they continue to work, there's some ramifications for that, that are significant, so there are some processes in place to deal with that.

Chair McHugh said he had a question, there was a question about the next full working day under emergency grading, how would you apply that? Tippet responded well one of the things you can also do is you can always pick up the phone and call. You know, there are a lot of requirements that we have where when we are in emergency work, we have to notify, within 24 hours, either we have to notify OSHA or we have to notify the Office of Emergency Services and most of them are handled by a phone call. Here's what's going on, this is what we're doing, and we'll get back to you real soon; but it at least lets us know that activity is going on and if it requires staff to go out and monitor or take a look at it, we provide that opportunity, rather than us discovering it during situations going on. Most likely it's going to be a fire or flood and we're most likely going to be out there and it helps to always know what other people are up to when we're out there trying to do what we need to get done.

Commissioner Stewart said her issue with it is the providing of photographic evidence within 1 day. She's not sure that picking up the phone in the midst, sure you can pick up the phone and call and say my land is flooding and I need to do whatever with heavy equipment to protect my home or whatever, they're not necessarily going to be able to provide you with photographic evidence. Tippet responded said okay, he could go with if the [inaudible] is unable to provide that, he would like to see it as soon as possible, but we can have some flexibility on that.

Commissioner Matthews said the second part of that Rick is the person has to apply for a permit within 10 calendar days from the commencement of grading. If the activity that you're doing in an emergency

requires an engineer or sediment control specialist, or whatever, you're not going to be able to get a set of plans together in 10 days, so is the permit process going to be tiered somehow that you apply, then you have a certain amount of time to take your plans in, 10 days never happens in his world. Tippet responded one of the things in Trinity that we always operate on is, it's tough to operate this way, but we have operated on, a lot of times what we want to know is you're in there working on getting things rolling, and that's what we're looking for is established application that provides something for us to follow through with the process. So, when we're asking for them to be in with an application, that's what our intent is, is to get them to come in and get things rolling so that we are on record and we have essentially a base line of what they're doing. If they're making progress, we will never stymie and important project as long as it's making correct progress and they're doing the things that they're suppose to be doing.

Commissioner Frasier stated all that emergency stuff, we're still talking about a 20,000 sq. ft. threshold before that would be required, aren't we? Tippet responded yes, all those thresholds still apply. Frasier said and then at the same time, if we did have like a wildland fire incident where towns are threatened, he doesn't know anybody who's ever taken a dozer and went out to a fire line who wasn't then commandeered by the Forest Service and stuck in a fire camp for the next 14 to 28 days, how at that point would you be able to apply for that permit? Tippet responded firefighting activity is an exempt activity. What it really is intended for is someone who has cut into a road and all the sudden now it's slipping away and it's going to cover the highway and roll into the creek. They had a smaller project and now they have a much larger project because of a big slide and they've got to go and move all of that material, those are the things that we need to be aware of because coordination with that homeowner and we could do more jurisdictional coordination with state agencies to make sure that all the things are done. Remember emergencies, things are always a lot different than they are when you are kind of rolling along with something that's planned. He said Mad River Road is a great example. We wanted to put rip rap out there, they said no, no, no, and until the river started eroding under the road, and then once it got under the road they said go ahead, put all the rip rap in the river you need to keep the road from going; but, his point is, in an emergency they allow for different standards than they do during a normal process. Commissioner Frasier asked did you get a plan in place within 10 days to fix the road? Tippet responded we had to send a plan to Fish and Game is what we did.

Commissioner Hoard stated in light of a couple of comments from Mr. Colebeck that it appears that the process is really close to completion. It seems like the checklist as Commissioner Stewart indicated, okay so if we pass this, it goes to the Board of Supervisors and a couple more meetings it could potentially at that time get passed, from what he understands, the specific standards and the checklist for whatever application could be in place; so his concern is, in light of really good comments from the public and the professional present, he appreciates the intent of passing this and the curtailing of those illegal activities that are causing the most environmental damage, but after waiting 35 years of this not happening, is there really a pressing that we move forward with this tonight and cannot wait? He's guessing at the time frame, 2 months, perhaps and have a perhaps finalized grading ordinance in place. He's more inclined in waiting for that time, so as to see the whole picture. He's heard from several the intent, and he appreciates how intents carry, but it appears to him this ordinance can be revisited and tweaked and just something more full rounded and robust could be presented and we could move forward with that. He said he's concerned about subjective approvals, as with staff deficiency the timeframe to get permits, those are the things that come to mind.

Commissioner Matthews said he doesn't think staff has really proposed to have a complete grading ordinance in place in a couple of months, this is really just a very small proportion. Commissioner Stewart agreed. Commissioner Frasier said he assumes when they do bring us a grading ordinance, it's going to take more than two months of us bantering back and forth before we can ever agree on it. Director Tippet said he's been through a grading ordinance process to create a grading ordinance that

would be acceptable to the community to address all the issues from mom and pop's little grading job to these big grading projects that we're trying to stop, it takes months. There's a lot of months, a lot of meetings, a lot of back and forth, we do not have those resources right now, as everybody has mentioned, to do that, so that is why we are trying to tackle very specific things to kind of, as they say, pick the low hanging fruit, that's what we're trying to do right now is address a particular section of the problem we're having right now, it's a small section, but it makes up for the large majority of our problems. That's why we are trying to move this forward expeditiously, but his biggest concern is that we get bogged down with the overall process. If we get bogged down on that, we will no go anywhere for quite a while.

Commissioner Stewart said she absolutely agrees with that, we really need to move forward tonight. She said she can see no point in waiting, two months isn't going to get us anything. Chair McHugh asked if that was a motion. Stewart responded she supposes it was. Chair McHugh asked Counsel if this required Findings since it will be an ordinance. Counsel Larmour responded yes, you should make Findings moving forward with the ordinance. Commissioner Stewart asked staff if there were any Findings written. Commissioner Frasier stated Findings and Declaration should be the "Whereas" section. Stewart agreed.

On motion of Commissioner Stewart to recommend to the Board of Supervisors approval of the item to limit the environmental degradation and threat to public safety that results from unregulated mass grading, based on the Exhibit A Findings and Declarations, as presented by staff, and with slight changes in wording regarding authority for penalties with other agencies, and that photographic evidence be provided as soon as possible for emergency work. Seconded by Commissioner Frasier. Motion carried unanimously. Roll Call Vote: Commissioners Hoard, Matthews, McHugh, Frasier and Stewart-Aye.

5. MATTERS FROM THE COMMISSION

Commissioner Hoard stated he is curious about the status of Mountain Communities Healthcare District modular buildings. It was originally proposed to come back within a month's time, now it's mid-March. He said he read some comments in the newspaper last week that apparently Aaron Rogers claims the County has all the information that it needs, and he wanted to know if there are any updates regarding this. Deputy Director Hubbard responded we are trying to get that scheduled next month for a Planning Commission meeting.

Commissioner Matthews stated at the January 17th meeting Chair McHugh requested Director Tippett report back with his findings about work going on at the Smith Tailings. He was just curious if there was an update. Director Tippett responded no update. Chair McHugh asked if he was still going to do that. Tippett responded yes, he would.

Commissioner Frasier stated he was wondering if staff had any idea if we are going to be visiting the K Type Housing any time soon, as he's still getting a lot of questions about that. Director Tippett said he wanted to go back to Smith Pit for a minute, David has been working on that quite a bit in coordination with Cal Trans. Colebeck stated he's recently in charge of mining operations and was certified last December to do mine inspections. He said we've been getting files in order basically, but he's well aware of Smith Tailings operations and complaints that have come through about it. We've been on site inspections at their current operations, as well as [inaudible]. Looking at the Reclamation Plan, both past and the updated one, and Conditional Use Permit. He's had a number of conversations particularly about the site. Commissioner Stewart asked if they are still operating during school hours. Colebeck responded they are saying they're not. There are still current restrictions that are on the operation, but in terms of being able to address each specific complaint, he is saying he could move faster on that.

Tippett said it was outlined to them that the operations that they went through this last year with the big slide at French Creek was a grant of special privilege during that time and that they were suppose to come back after the fact and get the proper permitting for that site, which they have not completed, so when this slide happened on 299 in Junction City they were not being allowed to use that as a disposal site, and the contractor went on to go to another site. After an audience member said they are dumping stuff there every morning, Tippett said he will have to take a look at it tomorrow and we'll verify with CalTrans, it would be very surprising. Commissioner Hoard said from what he understands, they dumping now at the Grange Mine. Tippett said this is all speculative, he will have to ask the right people that are involved tomorrow. Colebeck stated Eagle Rock is taking the slide material down from 299, they have a contract with the contractor that contracts with CalTrans and so he hasn't looked into that specific private contract between Eagle Rock and the operative. Tippett said yes, they do have a contract with Eagle Rock, and by the way Eagle Rock is under those same restrictions that they will go and update their plan afterwards, and one of the things in his discussions with CalTrans during this whole process was the fact that most of the fill site along 299 are occupied, for a better word, with their material and they really do need to spend the next year or two identifying new sites that are significant in size that they can go and pretreat and have ready for a situation where they do have to do large disposals. If you go up to Buckhorn right now you will see that they've filled up a lot of holes and they are running out even there for space for material, so he wants them to start developing that future site. Chair McHugh said he thinks the impact on the neighbors was the hours of operation as well as the quantity of material going places has caused some disruption. Tippett said well, we'll follow up on it.

6. MATTERS FROM STAFF

Deputy Director Hubbard advised we will not have a Planning Commission meeting on March 28th, we thought we would, but we will not, so we are into our next meeting in April and we will have two meetings in April.

Director Tippett stated CalTans had approached the County and some of the other jurisdictions in the area that they are going to be undertaking herbicide application along state highway systems. He wants to be very clear that it is not the local County road system, we have no intentions or no proposals on that; but, the Board had an update during Director's Report the other day, and has provided direction back to him to introduce or have CalTrans' environmental staff and the Deputy Director when they are putting this together, to meet and have discussion the Weed Management Area Committee and he believes that meeting is taking place on Thursday, here in this building next week at 6:00. And then what the Board asked him to follow up with, was that CalTrans would hold a public workshop where they could receive input from the public, and possibly coordinate with some of the things or suggestions that the community says they want. The Board sees that State law says very clearly that Trinity County has no jurisdiction for stopping them from spraying weeds, so there is really absolutely nothing we can do, but we would want to make sure that we introduce them to the people that can provide input and help maybe change the spirit of what they're trying to do to have things work better. He said there's a lot of accusations are cooking behind everybody's backs, but we're just trying to have meetings and [inaudible].

Commissioner Frasier said Director Tippett never answered if we have any kind of date for revisiting K Housing. Tippett responded oh, Type K Housing, yes, it's again with the Housing element and the General Plan Update, and that's something we really intend on getting underway, but we have to get staff on board and right now they are in the process of hiring a new Planning Director and Building Director, so our hope is that through that and through anticipated salary comparative to attract more people, but right now where we are at as far as staffing, we are trying to find outside consultants in order to get things done.

Commissioner Frasier asked isn't the Housing Element due this year? Tippett responded yes. Frasier asked we're not going to do it this year though, are we? Tippett responded his priority is the jail right now and cannabis.

7. **ADJOURN**

The Chair adjourned the meeting at 8:58 p.m.