

Attachment A

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ATTACHMENT A- DISCUSSION

Background:

The proposed ordinance underwent several changes before the final version that is before the Board (Attachment B). The changes were the outcome of discussions about disclosure methods with other County departments such as the Monterey County Treasurer-Tax Collector (TTC) and the RMA-Building Department. An earlier draft of the ordinance proposed notification through property tax bills, but after meeting with the TTC, staff decided against recommending disclosure through property tax bills because the TTC advised that having this type of notice in the property tax bills would raise the labor and postage costs by approximately \$50,000 a year. Staff then consulted with the RMA-Building Department and found that the County could provide disclosure through construction permit applications. Accordingly, in place of providing the “right to farm” notice in tax bills, the ordinance proposes notification to applicants for County construction permits. The ordinance also requires transferors of real property within the unincorporated area of the County to provide a “right to farm” notice to potential purchasers of the property.

Planning Commission Hearings:

Other revisions to the draft ordinance were based on Planning Commission direction. On June 25, 2014, the Planning Commission conducted a public hearing on the ordinance. The Planning Commission continued the hearing on the draft ordinance to August 27, 2014 and directed staff to make revisions to the draft ordinance, including but not limited to: clarifying whether or not the dispute resolution process was a voluntary process or a mandatory process, making the dispute resolution process “attractive” to the parties involved in the dispute, and revising the make-up of the Grievance Committee. Based on this direction, staff revised the draft, including making the following revisions:

- Structured the grievance process in a manner that clarifies that the process is a voluntary dispute resolution process.
- Eliminated reference to grievance process being required as exhaustion of administrative remedies prior to filing a court action.
- Revised Section 16.40.050 to provide for a “Voluntary Dispute Resolution Process” and to replace the Grievance Committee with Agricultural Commissioner as the body to conduct the dispute resolution process.
- Eliminated Subsection F (“Costs”) of Section 16.40.050. F to provide for a “no cost” voluntary dispute resolution process to be facilitated by the Monterey County Agricultural Commissioner’s Office.

Staff made revisions in accordance with this Planning Commission direction and presented the revised draft ordinance to the Agricultural Advisory Committee (AAC) on July 24, 2014. The AAC recommended approval of the revised ordinance with a vote of 10-0 (2 members were absent). On August 27, 2014, staff presented the revised ordinance to the Planning Commission, which recommended adoption by the Board of Supervisors by a vote of 9-0 (1 absent). The ordinance, as revised as described above, is what is before the Board.

Environmental Review:

The proposed draft ordinance is not a project under the California Environmental Quality Act (CEQA) per Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational

or administrative activity of government that will not result in direct or indirect physical changes in the environment. The ordinance establishes notification and dispute resolution processes.

Conclusion:

Staff is recommending that the Board adopt the ordinance (Attachment B of this report) amending Chapter 16.40 “Protection of Agricultural Activities” (“Right-to-Farm” Ordinance) of Title 16 of the Monterey County Code in order to increase the protection of agricultural operations from nuisance claims, with the goal of promoting the long-term protection of agricultural lands in Monterey County.