

June 2, 2019

Department of Public Works and Planning
County of Fresno
2220 Tulare Street
Fresno, CA 93721

Attention: Steven White, Director

Re: June 4, 2019 Board of Supervisors Agenda Item #16 — Draft 2018 General Plan Annual Progress Report

Dear Mr. White:

Please enter this communication into the record for the agenda item identified above. **And please share this communication with the Board of Supervisors (Board).**

In an effort to assist the County with accurate reporting, I'd like to point out errors and omissions I discovered in three documents, each of which is included in the Board packet for Item #16. The documents are these:

- The April 11, 2019 Inter-Office Memo (Resolution) from the Planning Commission to the Board
- The May 15, 2019 Inter-Office Memo from Steven White to the Board
- The June 4, 2019 Staff Report to the Board

April 11, 2019 Inter-Office Memo (Resolution) from the Planning Commission to the Board

Page 1 On page 1 is a statement that the Planning Commission's recommendations to the Board are not for the 2018 APR but rather for "*future*" APRs. Below is that statement.

"A motion was made by Commissioner Abrahamian and seconded by Commissioner Lawson to recommend that the Board of Supervisors consider Planning Commission recommendations for future APRs." [Underlining added]

We know this is not the case because (1) the Planning Commission gave no such direction and (2) there is a second statement in this same document (on page 2) to the effect that the Planning Commission's recommendations are directed toward the APR presently under review. The second statement reads as follows:

"Planning Commission recommended that the Board consider the following when considering the 2018 APR:" [Underlining added]

Below is a printout of Commissioner Abrahamian's April 11, 2019 motion, exactly as stated:

Commissioner Abrahamian: I will make a motion: we receive the 2018 annual progress report and recommendation— As staff had heard a number of recommendations, not just from Mr. Reep, but — he gave a few examples — but recommendation would include passing on [to the Board] the concerns or addressing the— passing on the issues that were raised, some of the questions. Staff, do you want to— Counsel, is there a way to word it?

County Counsel: I think that's a fair summation of the motion.

My understanding is that the Planning Commission wanted the concerns, issues and some of the questions raised at the Planning Commission hearing forwarded to the Board. This would have included, of course, the concerns I raised. Please note that my name is included in the Commission's motion and that following my testimony Commissioner Abrahamian stated: "I appreciate the comments made by Mr. Reep, and I see they are valid."

But the April 11, 2019 inter-office memo to the Board failed to bring to the Board's attention many of the more important concerns, issues and questions raised at the Planning Commission hearing.

At the April 11 hearing, I expressed a concern that the draft 2018 APR did not accurately report the County's inability to implement the General Plan, but my concerns were not included in the report to the Board.

Recorded below are some of the questions and concerns raised by Planning Commissioners, which should also have been made part of the staff's report to the Board:

Commissioner Vallis: OK. If there's been in any certain point of the General Plan— If there is no progress being made, how does the state recommend reporting that? Is it supposed to say, 'No progress has been made,' 'Nothing's done,' or if there is no progress, does nothing get reported?

And how does the state then check upon non-progress in a general plan, and is there an issue with non-progress on a general plan?

Commissioner Delahay: So this report [draft 2018 APR] obviously is big, and, you know, we've had a week to look at it, and I wasn't able to read every word and every page of it. I did look through it. But I'm wondering, like, because I'm not able to sit down and read every

word on every page, I didn't catch the things that like Mr. Reep was saying like, you know, the status is 2017 ², so what is the status of 2018 on some of these things? So I guess the question is this: Does the Board look at it [the APR] the same way that we look at it or is there ever like a workshop put on on this so that we can hear more about it?

[² Earlier in the hearing, in my testimony to the Commission, I mentioned that with respect to the second program in the General Plan — ED-A.B, the County's draft 2018 APR discussed what occurred in 2017 and said nothing about what occurred in 2018. My point was that the County's 2018 APR should report on what happened in 2018, not on what happened in prior years.]

Commissioner Lawson: But we just want to turn in an ordinary, blank, get-by report [APR]. If that's all we need, and that's all you want, I guess that's all we'll do.

But we got to do better. I've been sitting here for seven years, and it's never got any better....We're just, in my estimation only, we're just coasting.

When planner Mohammad Khorsand explained to Commissioner Lawson that the County did not have the resources needed to produce a better report, Commission Lawson responded as follows:

Commissioner Lawson: We've got to get the resources.

It's clear to me that Planning Commissioners wanted the Board to know of their concerns about the implementation of the General Plan and what they saw as deficiencies in the draft 2018 APR. But the County's planning staff did not include that information in its report to the Board.

Page 3

Exhibit A is located on page 3 of the April 11, 2019 inter-office memo (resolution) from the Planning Commission to the Board of Supervisors. That exhibit incorrectly identifies me as the author of a document entitled 2017 General Plan Annual Progress Report for the County of Fresno Prepared by the League of Women Voters of Fresno. Below is that statement from exhibit A.

"One member of the public [Radley Reep] mentioned a critique of the 2017 APR that he had prepared on behalf of the League of Women Voters." [Underlining added]

It was an error on the part of the County to credit me with authoring that document. On Thursday, May 30, I sent an email to the Department of Public Works and Planning asking that

the County take whatever steps were necessary to correct the error, but as of today, June 2, I have not heard back from the County. Please note that the preparer of the document is identified in the document title as being the League of Women Voters of Fresno. This same error occurs on page 2 of the June 4 staff report to the Board.

May 15, 2019 Inter-Office Memo from Steven White to the Board

Page 1

On page 1 is a statement explaining how cities and counties typically use general plans. The explanation is that a general plan serves as a gauge to ensure that development projects are consistent with the goals and policies of the plan. And that is indeed how Fresno County uses its General Plan. Below is that explanation from the inter-office memo.

“General Plans include goals and policies by which projects are analyzed against, and actions are taken consistent with the overall vision for the city or the county.”

Significant is the fact that the memo fails to inform the Board that our General Plan has another far-greater purpose. Our General Plan is, first and foremost, a massive work program designed to achieve a remarkable set of transformative goals, e.g., lessening poverty, conserving finite resources and protecting the environment. In order to achieve these goals, the 140 programs within the plan contain “unequivocal directives” requiring elected officials and County departments to undertake certain specific tasks, irrespective of whether there are any particular development projects. This is the power of the plan, and this is truly its central purpose.

But this is also where implementation fails. And this is also where the APR falters.

Page 1

In addition to failing to include an explanation of the main function of the County's General Plan, the inter-office memo provides only a truncated explanation of the purpose of an APR. Below is the statement from page 1 of staff's May 15, 2019 inter-office memo to the Board.

“The purpose of the APR is to inform the Board of Supervisors on the status of the County's implementation of its General Plan.” [Underlining added]

While this statement is true, it's not the full story. By statute, APRs must also include a report on “progress” toward implementing the General Plan. That's why APRs are called annual progress reports. The Government Code section cited below demonstrates clearly the need to include in an APR both the status of the plan and progress in its implementation.

Government Code 65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

- (1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.
- (2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:
 - (A) The status of the plan and progress in its implementation. [Underlining added]

The words “status” and “progress” are not defined in the code. Even so, it seems reasonable that an analysis of plan “status” would include an explanation of the extent to which the plan remains current and effective. The term “progress” indicates that the APR must also report the degree to which the plan’s components — its programs and policies — are successfully being implemented. The term “progress” also suggests that the APR should report on progress toward reaching the goals of the plan.

June 4, 2019 Staff Report to the Board

Page 1 The staff report to the Board erroneously reports that the draft 2018 APR contains an analysis of the implementation of General Plan policies. This is simply not so. The draft 2018 APR limits its review to General Plan programs; it does not provide information on policies. Below is a copy of this inaccurate statement.

“The General Plan APR informs your Board of implementation of the policies and programs of all elements of the General Plan.” {Underlining added]

Page 2 On page 2 there is a statement that has the potential to mislead the Board. With regard to conformance with the General Plan, the planning staff cited General Plan Policy LU-H.12 when it would have been better to have cited Program LU-H.D. Below is that disorienting statement.

“The APR has been prepared in conformance with County General Plan Policy LU-H.12.”

While it is true that the County prepared its draft 2018 APR in conformance with Policy LU-H.12, it also is true that the County did not prepare the APR in conformance with accompanying Program LU-H.D. With respect to the preparation of APRs, the wording of Program LU-H.D provides a fuller explanation of the conformance requirement. Policy LU-H.12 and Program LU-H.D are printed below:

Policy LU-H.12. “The County shall review the General Plan annually and revise it as deemed necessary.”

Program LU-H.D. “The Planning Commission shall review the General Plan annually, focusing principally on actions undertaken in the previous year to carry out the implementation programs of the plan. The Planning Commission’s report to the Board of Supervisors shall include, as the Commission deems appropriate, recommendations for amendments to the General Plan. This review shall also be used to satisfy the requirements of Public Resources Code 21081.6 for a mitigation monitoring program. (See Policy LU-H.12)” [Underlining added]

Public Resources Code 21081.6 requires the County to monitor implementation of the mitigation measures adopted for the General Plan — of which there are over 300, and Program LU-H.D codifies that requirement. However, the County’s 2018 APR contains no assessment of the effectiveness of these mitigation measures. Neither does any prior APR.

Page 2

Page 2 erroneously reports that there is no required content for an APR, other than what is required for the housing portion of the report. Below is that statement.

“It is important to note that there is no...required content for the General Plan APR with the exception that the report on implementation of the Housing Element must be prepared per the forms prescribed by HCD.” [Underlining added]

But the statement above is simply not true. For example, according to Government Code 65400(a)(2)(C), an APR must include “the degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2.”

And what are those guidelines? They are guidelines developed by the Governor’s Office of Planning and Research (OPR) for the preparation and update of general plans. OPR’s most recent version of the guidelines was published in 2017.

Had staff complied with this section of the Government Code and performed the required analysis, at a minimum, the draft 2018 APR would have included a finding that the County’s General Plan does not meet statutory requirements related to air quality and flood protection. The Planning Commission could then have discussed this shortcoming and recommended ways to resolve the matter. However, because County staff wrongfully concluded that, other than for the Housing Element, there is no required content for an APR, the Planning Commission was not afforded an opportunity to discuss these deficiencies.

It follows, likewise, that the statement below, (also found on page 2) is incorrect.

“The 2018 APR meets the statutory requirements of Government Code, Section 65400 and exceeds the OPR’s advisory guidance for preparation of the APR.”

In summary, the April 11, May 15 and June 4 staff reports to the Board contain a number of significant omissions and erroneous statements. Accordingly, the draft 2018 APR fails to include a discussion of the “progress” made toward implementing the General Plan, and it fails to include a discussion of the degree to which the plan complies with OPR’s 2017 General Plan Guidelines.

These staff reports also incorrectly state that the 2018 APR informs the Board of the implementation of General Plan policies and, additionally, that I am to be credited with the authorship of a document prepared by the League of Women Voters of Fresno. The reports understate the function of the General Plan and overstate the degree to which the draft 2018 APR satisfies the minimal reporting requirements required by statute and by the plan itself.

I ask that you please take the steps necessary to correct these inaccuracies and then inform Board members of the errors and omissions.

Thank you.

Sincerely,

Radley Reep
radleyreep@netzero.com
(559) 326-6227

Item #16
6-4-2019

June 3, 2019

Fresno County Board of Supervisors
2281 Tulare Street
Fresno, CA 93721

Re: The 2018 Annual Progress Report on the Implementation of the General Plan

Dear Chairman Magsig and Members of the Board of Supervisors,

Good morning. I'm Jim Grant, Director of Social Justice for, and here representing, the Diocese of Fresno, which covers eight counties of the Central Valley. I thank you for this opportunity to share the Diocese's serious interest in and considered advice regarding Fresno County's APR for 2018.

The Catholic Church maintains that certain virtues ought to guide our personal and social lives. Among them is Prudence, the ability to look at the big picture and make decisions that are well considered, wise and just, rather than short-term solutions to serious, complex issues. With this in mind, I urge you to consider the benefit of amending the County's 2018 APR.

In particular, I'm interested in an aspect of the implementation of the General Plan that is often overlooked — the update of the land use plans for the County's unincorporated communities, some of which are disproportionately affected by low-income, environmental pollution and other hazards.

Most of these plans were last comprehensively updated in the 1980s and 1990s. As long as these plans remain outdated, residents will have great difficulty improving the livability of their communities.

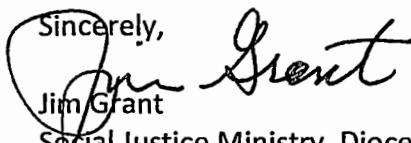
The 2018 APR reports that in 2003 the County established a priority list for the update of these plans. That's good, but the 2018 APR failed to report what the County did during 2018 to affect their update.

As you know, the law requires the County to keep its General Plan up-to-date, and these community plans are part and parcel of the General Plan.

Confident that your Board acknowledges the value of these communities, 7 of which are parishes or missions of the Diocese, would it not be prudent to report in the 2018 APR the County's progress toward updating their land use plans? By doing so, your Board will have the information needed to modify the implementation of the General Plan.

In conclusion, I respectfully request that the 2018 APR be amended to include information on the progress the County made in 2018 toward implementing the update of these community plans.

Sincerely,



Jim Grant

Social Justice Ministry, Diocese of Fresno

Office: (559) 488-7463

Cell: (559) 708-3530

jgrant@dioceseoffresno.org

"If you Want Peace, Work for Justice"

Saint Paul VI

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66210] (Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Local Planning [65100 - 65763] (Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)

ARTICLE 7. Administration of General Plan [65400 - 65404] (Article 7 added by Stats. 1965, Ch. 1880.)

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583. The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.