

Siskiyou County Planning Commission
Regular Meeting
September 17, 2025

The Siskiyou County Planning Commission meeting of September 17, 2025, was called to order by Chair Fowle at approximately 9:00 a.m. in the Siskiyou County Meeting Chambers, 311 Fourth Street, 2nd Floor, Yreka, California.

Present: Commissioners Hart, Melo, Veale and Fowle

Absent: Commissioner Lindler

Also Present: Rick Dean, Director, Community Development Department; Hailey Lang, Deputy Director of Planning; Rachel Jereb, Senior Planner; James Phelps, Senior Planner; Seth Curry, Floodplain Administrator; William Carroll, Assistant County Counsel; Janine Rowe, Commission Clerk

Minutes: It was moved by Commissioner Veale, seconded by Commissioner Melo, to approve the August 20, 2025, Planning Commission Minutes as presented.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Unscheduled Appearances: None

Conflict of Interest Declaration: None

Presentation of Documents; Availability of Public Records; Public Hearing Protocol: The Chair directed those present to refer to the Agenda for these items.

Right of Appeal Statement: The Chair read the Right of Appeal Statement.

Changes to the Agenda: None

New Business:

Agenda Item 1: Siskiyou County Floodplain Management Ordinance Update (SP-25-01) / Categorically Exempt

This project is a complete update of the existing Siskiyou County Floodplain Management Ordinance, located at Title 10, Chapter 10 of the Siskiyou County Code, in order to remain in compliance with the National Flood Insurance Program (NFIP).

Categorically Exempt
Floodplain Management Ordinance Update

Recommending Adoption
Recommending Approval

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Mr. Phelps.

Mr. Phelps told the Commission that this project involves updating Siskiyou County's floodplain management ordinance to stay compliant with FEMA's National Flood Insurance Program. The

update is necessary because FEMA finalized new flood maps for the county, and the ordinance must reflect these changes by the December 11, 2025, deadline. The last update was in 2010. He said Seth Curry, the county's Floodplain Administrator, has been working on the revision using a model ordinance from the Department of Water Resources (DWR). The project aligns with the county's general plan, and staff recommends it be exempt from CEQA under the common sense exemption.

Agency Input: None

The Chair opened the Public Hearing.

Public Comments: None

There being no comments, the Chair closed the Public Hearing.

Commission Questions/Discussion:

During a discussion about a debris catchment structure on Mt. Shasta near the high school, Commissioner Melo raised concerns about its maintenance and potential overflow during heavy rains. He asked who was responsible for cleaning it up, and Mr. Dean said it's on federal land managed by the US Forest Service, not the county. Despite ongoing efforts involving the city of Mt. Shasta, US Forest Service, and engineers, financial constraints have stalled progress. Commissioner Hart raised concerns about Whitney Creek, where jurisdictional confusion persists due to overlapping private and federal lands.

Mr. Phelps suggested leveraging local resources like the Sheriff's work program and emphasized the need for community-driven solutions rather than relying solely on external aid.

There was discussion that the National Flood Insurance Program serves as a backup option for those unable to obtain flood insurance through private providers. Mr. Phelps said in order for residents of Siskiyou County to remain eligible for this federal coverage, the County must update its ordinance to incorporate FEMA's newly revised floodplain maps. He emphasized that staying in the National Flood Insurance Program is crucial for Siskiyou County, as it directly affects eligibility for federal hazard mitigation grants and access to government-backed loans. He acknowledged inefficiencies in government but stressed that this program provides essential support for farmers, homeowners, and veterans who might otherwise be unable to obtain flood insurance.

Chair Fowle added that if someone believes their property is incorrectly mapped in a floodplain, they can hire a surveyor to take elevation measurements, and if the data shows the property is at or above the flood map level, there's a process to appeal. However, if it's below, the designation stands.

Mr. Curry added that an elevation certificate is required from a civil engineer or surveyor.

Mr. Phelps further explained that under the ordinance, the floodplain administrator can issue variances allowing construction in floodplain areas with specific building requirements, but not in designated floodways like near the Scott River. He said after FEMA issues a mapping letter, there's a 90-day window for objections, but none were submitted by the county or its residents, so the maps became effective. However, individuals can still challenge the maps by submitting updated elevation data from a surveyor.

Chair Fowle said that resolving issues on US Forest Service land, like the one Commissioner Melo

mentioned, requires formal collaboration between the county, state, and federal government. Currently, no such communication framework exists, but if initiated by the Board of Supervisors, it could lead to regular dialogue and potential waivers from the federal government allowing the county to take action. Without federal approval, neither the county nor the state can intervene on federally managed lands.

Motion: Following discussion, it was moved by Commissioner Veale, seconded by Commissioner Melo, to Adopt Resolution PC 2025-014, a Resolution of the Planning Commission of the County of Siskiyou, State of California, Recommending that the Siskiyou County Board of Supervisors Approve the Proposed Floodplain Management Ordinance (SP-25-01) Based on the Recommended Findings; and Recommending that the Siskiyou County Board of Supervisors Determine the Project Exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present on the following roll call vote:

Ayes: Commissioners Hart, Melo, Veale and Fowle

Noes:

Absent: Commissioner Lindler

Abstain:

Agenda Item 2: Remote Public Participation

Discontinue Remote Public Access to Planning Commission Meetings

Approved

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Mr. Carroll.

Mr. Carroll told the Commission that the Planning Commission is currently not required to broadcast its meetings online, but a bill approved by both the State Assembly and Senate could change that. If signed by the governor, the new law would mandate internet broadcasting of meetings starting in July 2026. Until then, the Commission has the option to continue or discontinue online broadcasts.

Commission Questions/Discussion:

There was discussion that the pending legislation that would require meetings under the Brown Act to be broadcast online for public viewing and listening, though not necessarily with two-way communication. Ms. Jereb highlighted the technical issues with the current Teams setup and noted recurring problems due to inconsistent hardware and IT limitations. Commissioner Veale suggested alternative platforms, but Ms. Jereb reiterated the county's directive to use Teams.

Commissioner Hart suggested continuing the discussion until the governor acts on the bill, but Ms. Jereb recommended halting virtual meetings unless legally required and Commissioner Melo agreed.

The Chair opened the Public Hearing.

Public Comments: None

There being no comments, the Chair closed the Public Hearing.

Chair Fowle supported staff's recommendation to stop broadcasting meetings until it becomes a state mandate in July. He emphasized that if the bill is signed, the county will need proper technology to comply. He proposed placing a resolution on the December agenda for the Planning Commission to urge the Board of Supervisors to either allow use of a room with adequate equipment or invest in upgrading the current meeting space, noting that the responsibility to meet the mandate lies with the Board, not staff or the Commission.

Motion: Following discussion, it was moved by Commissioner Melo, seconded by Commissioner Veale, to Adopt Resolution PC 2025-015, a Resolution of the Planning Commission of the County of Siskiyou, State of California, to Terminate Remote Public Attendance to Planning Commission Meetings.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Items for Discussion/Direction:

1. Ongoing Staff Update Regarding the General Plan Update

Ms. Lang reported that staff is working with the consultants to revise draft elements of the plan, with the safety element finalized and the noise element next in line for workshop review. She said the process includes workshops with both the Planning Commission and the public before formal adoption, which will align with the zoning code update early next year. Ms. Lang said each element will be addressed individually at meetings. Mr. Phelps added that the circulation element is also ready. The target for full adoption is mid-2026, based on a local contract timeline, as there is no fixed state deadline.

2. Public Trust Doctrine

Mr. Carroll provided an overview of the Public Trust Doctrine, tracing its origins from Roman law through English common law to US Supreme Court recognition in a case involving submerged lands in Chicago. He said the doctrine holds that certain natural resources such as water used for navigation, fishing, recreation, or drinking must be protected for public benefit. In California, the Audubon Society case established that diverting water from Mono Lake violated the doctrine.

Mr. Carroll said more recently, the Environmental Law Foundation (ELF) case, involving Siskiyou County, clarified that even non-public trust resources like groundwater must be regulated if their use affects a public trust resource such as the Scott River.

Mr. Carroll said the Public Trust Doctrine operates independently of CEQA, meaning it must be considered even when a project is exempt from CEQA review. He said while CEQA and the Public Trust Doctrine often overlap, especially regarding impacts on water and aquatic life, it is not explicitly included in CEQA regulations or its checklist. CEQA does reference public trust in identifying trustee

agencies, but it doesn't treat the Public Trust Doctrine as a standalone category. He said legal commentary suggests Public Trust Doctrine considerations are naturally integrated into CEQA, though courts haven't definitively ruled on their relationship. A major unresolved issue is how the Public Trust Doctrine interacts with appropriated water rights, as the Environmental Law Foundation case left open whether one overrides the other, implying a case-by-case balancing approach.

In answer to an inquiry from Commissioner Veale about whether the Public Trust Doctrine can trigger takings, Mr. Carroll said it remains an unresolved issue. He said the 9th Circuit raised the question in a case involving *Walker Lake*, which spans California and Nevada, but the Nevada Supreme Court declined to answer, stating that Public Trust Doctrine considerations were already embedded in the state's water rights system.

Mr. Carroll said no California court has addressed this directly, and some legal commentary suggests the Public Trust Doctrine does not constitute a taking because it represents a pre-existing limitation on property rights, although this view hasn't been confirmed by the courts. Mr. Carroll said the Public Trust Doctrine ultimately aims to protect public resources, though its interaction with appropriated water rights and takings law remains legally unsettled.

Commissioner Veale asked whether the Public Trust Doctrine might eventually be settled by the Supreme Court, but Mr. Carroll noted that current cases like the ELF case are resolved and others, like the Nevada case, remain unresolved. He also clarified that Public Trust Doctrine violations typically stem from government approvals that harm public resources, not private actions, and while the Public Trust Doctrine can be overridden for good reason, it's not absolute.

Chair Fowle posed scenarios where higher government entities or private citizens could challenge local decisions that violate the Public Trust Doctrine. He also raised concerns about unapproved activities harming public trust resources, such as groundwater contamination from agricultural practices, prompting questions about enforcement responsibility and regulatory oversight.

Chair Fowle said the ELF case states that groundwater could be public trust if it impacts surface water. The Commissioners noted that proving this connection is the goal of the ongoing LWA process, though not all groundwater in the valley interacts with surface water. Chair Fowle questioned who can take action when public trust resources are harmed, but Mr. Carroll emphasized that the Public Trust Doctrine applies to government decisions or approvals and not private actions, and contamination by private actors is considered a regulatory or enforcement issue rather than a Public Trust Doctrine violation.

Chair Fowle expressed concerns about groundwater contamination and questioned which level of government—county, state, or federal—is responsible for enforcement if illegal substances are detected. He emphasized the county's role in public health and safety, referencing the Agricultural Commission's pesticide unit. Mr. Carroll responded that enforcement is discretionary and typically falls under the jurisdiction of any relevant policing authority, including local, state, or federal agencies. However, these entities cannot be compelled to take action, and decisions often depend on agency priorities and political considerations.

The Commission explored whether specific fish species, especially those that can't be legally fished, qualify as public trust resources under the Public Trust Doctrine. Mr. Carroll clarified that the Public

Trust Doctrine is typically defined by activities like fishing, boating, and recreation, rather than a fixed list of resources.

Commissioner Hart said the ELF case linked groundwater pumping to reduced surface water flows affecting fish habitats, which raised questions about whether the fish or the water is the protected resource. Mr. Carroll suggested that endangered species likely fall under Public Trust Doctrine protections due to their legal status, even if not publicly accessible, while non-endangered, off-limits species may be easier to override. Commissioner Hart emphasized the connection to CEQA, noting that species surveys and protections often arise during project permitting, and questioned how planning determines which species fall under the Public Trust Doctrine outside of CEQA.

Mr. Dean emphasized that the Public Trust Doctrine broadly protects habitats supported by water, not just specific species, and that streamflow impacts must be considered when issuing well permits. Chair Fowle noted that California may soon face conflicts within the Public Trust Doctrine itself, as protecting one public trust resource could harm another.

Commissioner Hart questioned the definition of groundwater, especially in areas like the Shasta River where underground flows may resemble streams. He raised concerns about regulatory fees and jurisdiction, arguing that such flows might fall under Public Trust Doctrine protections. Mr. Carroll acknowledged the complexity and suggested that legal definitions and regulations would need to clarify jurisdiction and enforcement.

Commissioner Hart expressed concern not with the regulations themselves, but with the perceived unfairness in how costs are distributed, specifically targeting a small group to fund the entire program. He warned that this approach could severely impact agriculture, potentially driving it out of business, which would in turn disrupt the General Plan and the Scott Valley Area Plan.

Miscellaneous:

1. Future Meetings: The next regular meeting of the Planning Commission is scheduled for Wednesday, October 15, 2025, at 9:00 a.m. A brief discussion was held regarding the projects to be presented at the October meeting.

2. Correspondence: None

3. Staff Comments:

Returning to the Public Trust Doctrine discussion, Mr. Phelps wanted to clarify that the doctrine is a common law principle, not codified like CEQA, and primarily applies to navigable waters. Underground water sources aren't covered unless they affect surface flows like the Scott River. Commissioner Hart added that ongoing state flow modeling could impact land use and water availability, raising CEQA concerns due to protected species and wetlands. Mr. Phelps emphasized that there's no formal list of public trust resources and that balancing water rights with public trust obligations will require difficult policy decisions. He stressed the need for local collaboration to minimize impacts and noted that the Public Trust Doctrine is shaped by judicial interpretation, not legislation.

Ms. Jereb followed up on Commissioner Hart's concerns about traffic from a permitted event in his neighborhood. She said she spoke with the event coordinator, who appreciated the

feedback and is working with loggers to coordinate traffic timing and plans to improve attendee communications next year. The coordinator also noted their forest service road permit allows for event traffic signage, which they may decide to use. Ms. Jereb offered to share the coordinator's contact information if Commissioner Hart wished to reach out directly, and Commissioner Hart thanked Ms. Jereb for relaying his concerns.

Mr. Dean announced that the Commission Clerk is retiring and thanked her for her years of service. Commissioners and staff congratulated Ms. Rowe and expressed their appreciation and gratitude for her exemplary work.

4. Commission Comments:

Commissioner Veale asked if any upcoming projects might generate revenue for the county. Staff mentioned a potential business from Bioray, a natural supplement company that is working with McCloud Partners. Mr. Dean noted slow progress on a gas facility at the former pellet mill due to substandard plans and Water Board involvement. He also mentioned a proposed large structure on the Hearst property, and Mr. Curry added that Sierra Pacific Industries is expanding with additional greenhouses.

Commissioner Hart questioned the rationale behind recent road maintenance on Black Mountain, noting the county's staffing shortages and limited resources. He expressed concern about prioritizing subdivision roads with minimal use over more critical routes. Ms. Lang explained that transportation funding comes from various sources, including federal and state programs managed by the Siskiyou County Local Transportation Commission, which plans road improvements years in advance. Not all projects go through that commission, and some are decided locally by Public Works staff. Mr. Dean added that road funding decisions are made on a case-by-case basis.

Chair Fowle said he confirmed that no Williamson Act items are expected for formal action before the next Planning Commission meeting, though discussion is scheduled for the October 7 Board of Supervisors meeting. He highlighted several challenges facing agriculture in the county, including ongoing drought, pending legislation (AB 263), groundwater management issues under SGMA, and new regulatory fees from the North Coast Water Quality Control Board. He stated that these pressures raise broader questions about the county's commitment to preserving open space and agriculture.

Chair Fowle additionally noted that the Board of Supervisors' directive to review existing Williamson Act contracts has revealed inconsistencies in how parcels qualify for tax benefits, prompting further scrutiny. He raised concerns about parcels currently under the Williamson Act that may not meet eligibility under existing county language. He proposed four criteria for evaluating Williamson Act parcel validity which include:

- Confirming the parcel is part of a legal 100-plus acre easement with a valid contract;
- Determine if it is at least 40 acres and capable of generating significant agricultural revenue;
- Assess whether it produces agricultural income, including timber and applying a revenue threshold of \$100 per acre annually averaged over five years;

- Determine whether the land is historically significant open space.

Chair Fowle emphasized the importance of revisiting the Williamson Act in light of current and future regulations affecting agricultural land. He proposed that if no action is taken at the October 7 Board of Supervisors meeting, staff should bring the issue to the Planning Commission's October meeting for potential action and recommendation to the Board of Supervisors. Commissioner Hart expressed concern over longstanding contracts now being questioned, potentially impacting landowners who invested based on those agreements.

Mr. Carroll clarified that staff could relay comments but cannot speak for the Commission without formal action, and Mr. Dean encouraged the commissioners to participate directly.

Chair Fowle's next request was that a formal invitation be extended to any new Public Works Directors to attend a future Planning Commission meeting to discuss public safety concerns related to winter driving and to revisit the idea of an MOU with the state that would allow the county to plow state highways connecting county roads, ensuring safe travel for teachers and students.

In conclusion, Chair Fowle and the rest of the Commission thanked the Commission Clerk and expressed their appreciation for everything she has done.

Adjournment: The meeting was concluded at approximately 10:59 a.m.

Respectfully submitted,

Signatuer on File

Hailey Lang, Secretary

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