

# KINGS COUNTY AGRICULTURAL ADVISORY COMMITTEE

CHARLES DRAXLER – DAIRY INDUSTRY  
JIM GREGORY – AG CHEMICALS & PETROLEUM  
VACANT – KINGS COUNTY FARM BUREAU

DON MILLS – WATER  
BILL TOS – NUT CROPS  
VACANT – SMALL FARMS

JOHNNY STARLING – AG PROCESSING  
BOB PRYS – FEED/SEED & GRAIN  
BRIAN POTTER – AG EQUIPMENT

SECRETARY: GREGORY GATZKA

STAFF: DAN KASSIK (559) 852-2655

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Agency at (559) 852-2680 by 4:00 p.m. on the Monday prior to this meeting.*

## AGENDA

Thursday, April 11, 2013  
12:00 P.M.

This meeting of the Agricultural Advisory Committee will be held in the AG Commissioner's Multi-Purpose Room, 680 N. Campus Drive, Hanford, California. **NOTE:** All attendees are invited to bring a lunch.

### I. CALL TO ORDER – Chairperson

A. Roll Call of Ag Advisory Committee Members: *(Gregory Gatzka – Secretary)*

B. Introduction of New Members

C. Unscheduled Comments:

*Any person may address the Committee on any subject matter within the jurisdiction or responsibility of the Committee at the beginning of the meeting; or may elect to address the Committee on any agenda item at the time the item is called by the Chair, but before the matter is acted upon by the Committee. Unscheduled comments will be limited to five minutes.*

D. Approval of the Minutes of the April 12, 2012 meeting: *Chairman: Call for motion, second and voice vote.*

E. Election of Officers – Chairperson and Vice Chairperson

### II. OLD BUSINESS

None

### III. NEW BUSINESS:

A. **WALNUT THEFT ORDINANCE**– Tim Niswander

Discussion of the impacts of walnut thefts on Kings County growers and the potential need for regulation.

1. Discussion

2. Action: Provide recommendation to the Board of Supervisors.

### IV. MISCELLANEOUS

A. Correspondence

B. Staff/Agency Updates

### V. ADJOURNMENT –

The next regularly scheduled meeting is July 11, 2013.

# KINGS COUNTY AGRICULTURAL ADVISORY COMMITTEE

CHARLES DRAXLER – DAIRY INDUSTRY  
JIM GREGORY – AG CHEMICALS & PETROLEUM  
MICHELE COSTA – KINGS COUNTY FARM BUREAU

DON MILLS – WATER  
BILL TOS – NUT CROPS  
VACANT – SMALL FARMS

JOHNNY STARLING – AG PROCESSING  
BOB PRYS – FEED/SEED & GRAIN  
BRIAN POTTER – AG EQUIPMENT

STAFF: MARK SHERMAN (559) 582-3211 EXT. 2675

## MINUTES OF April 12, 2012

### **Call to Order:**

Chairman Mills called the meeting of the Agricultural Advisory Committee to order at 12:04 p.m. in the Ag Commissioner's Admin Multi-Purpose Room, 680 N. Campus 1400 W. Lacy Blvd, Hanford, California.

### **Committee Members Present:**

Don Mills, Michele Costa, Brian Potter  
Jim Gregory, Johnny Starling, Bob Prys

### **Committee Members Absent:**

Charles Draxler, Bill Tos

### **Ex-Officio Members Present:**

Tim Niswander

### **Ex-Officio Members Absent:**

Greg Gatzka, Kathy Sargent

### **Auxiliary Members Present:**

Kerry Arroues, Jay Salyer  
Jim Sullins

### **Auxiliary Members Absent:**

Charles Buhl, Carol Collar,

### **Committee Coordinator Present**

Joe Neves, Doug Verboon

### **Committee Coordinator Absent**

### **County Staff Present:**

Larry Spikes, Johannah Hartley,  
Chuck Kinney, Mark Sherman,  
Terri Yarbrough

### **County Staff Absent:**

### **Visitors Present:**

Stan Palm, Linda Palm, Dwayne Morine, Ryan Palm, Stephanie Palm, Hal Workman, Lance Workman,  
Jim Verboon, Lisa Flood

### **Unscheduled Comments:**

None

### **Minutes: January 12, 2012 Meeting:**

A Motion was made and seconded (Gregory/Prys) to approve the minutes of the January 12, 2012 meeting. The Motion carried unanimously with Draxler and Tos absent.

## **OLD BUSINESS**

### **Update on Drought Conditions in Kings County:**

Johannah Hartley updated the Committee on the Board of Supervisor's resolution declaring a local emergency due to drought conditions in Kings County on April 3, 2012 and that the declaration is required to be renewed every 30 days. Ms. Hartley reported that due to the most recent precipitation, Cal Fire had cancelled their alert on burning. She also reported that there is a seven percent reduction in the county's ground water levels. Chairman Mills gave an overview on groundwater usage and the potential for groundwater controls by the State and noted that California and Texas are the only two states without groundwater controls.

### **Commercial Solar Facilities on Williamson Act Land:**

Chuck Kinney provided an overview on solar projects on Williamson Act Land. He stated that the Board of Supervisors adopted a resolution on March 7, 2012 determining that commercial solar facilities are not compatible with the Williamson Act by right. Instead commercial solar facilities must either make findings of consistency with government code 51238.1.a or they must cancel the Williamson Act Contract where the commercial solar facility is to be located.

## **NEW BUSINESS**

### **Hail Cannon Use in the Agricultural Zones as Crop Protection:**

Larry Spikes provided an overview of what steps have been taken with regard to noise from the hail cannon concussions. He reported that surrounding counties have determined that the cannons fall under the right to farm. The general consensus in Kings County is that the cannons probably should not fall under the right to farm. Tim Niswander, Kings County Ag Commissioner stated that based on previous meetings a voluntary program of best management practices had been implemented and stated that some attempts to silence the cannons have actually created more noise. He also stated that he has no authority to enforce the noise issue with the hail cannons. The following members of the public spoke: Stan Palm, Larry Workman, Stephanie Palm, Lisa Flood, and Hal Workman with concerns about the quality of life and impacts on their children and animals. Mr. Palm stated that he started working with, past Supervisor, Alene Taylor several years ago and he provided information on how the hail cannons were being regulated in Brown County, Texas. Mr. Workman played a video, which was taken in his driveway approximately 600 feet from a hail cannon, he took the previous day while the hail cannons were firing. A second video showing the effects of the hail cannons at a residence was also shown to the Committee at the request of Stephanie Palm.

Chairman Mills recommended getting the home owners and the hail cannon owners together. At the recommendation of Larry Spikes, it was the consensus of the committee that the Community Development Agency and the Ag Commissioner would meet with Administration to explore options to address the noise from the hail cannons and make a recommendation for a resolution.

### **Meteorological Evaluation Towers and Aviation Safety:**

This topic was deferred to a later date since the presenter, Mr. Potter was unable to attend the meeting.

### **Central Valley Flood Protection Plan:**

Jim Verboon provided information to the Committee regarding potential impacts of the Department of Water Resource's plan for the Central Valley Flood Protection.

**Correspondence:** None

**Member Comments:** Michelle Costa extended an invitation to an agri terrorism seminar at 8:00 a.m. on April 19. Jim Sullins reported that a meeting was being held on May 3 at the Kearny Ag Center from 2:00 p.m. to 4:30 p.m. to discuss the impacts of the Department of Water Resources report on nitrates in the ground water.

**Staff Comments:** None

**Adjournment**

With no further business before the Committee, the meeting was adjourned at 1:30 p.m. The next regularly scheduled meeting will be July 12, 2012 at 12:00 noon.

Respectfully Submitted,

Chuck Kinney, Acting Secretary

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE ADDING ARTICLE IX "PREVENTION OF WALNUT THEFT" OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE COUNTY OF KINGS.**

The Board of Supervisors of the County of Kings ordains as follows:

**SECTION 1.** Article IX of Chapter 14 of the Code of Ordinances of the County of Kings is hereby added to read as follows:

**ARTICLE IX. PREVENTION OF WALNUT THEFT.**

**Section 14-161. Purpose and Intent.**

This Article is adopted under the authority of California Food and Agriculture Code section 866. It is the purpose and intent of this Article to help protect the agricultural industry of Kings County, establish a means of verifying valid ownership of walnuts in order to prevent and deter theft, and to provide a means for local enforcement of laws and regulations pertaining to the purchase and sale of walnuts.

**Section 14-162. Definitions.**

Except where the context otherwise requires, the following definitions shall govern the construction of this Article:

(a) "Agricultural Commissioner" means the Agricultural Commissioner of Kings County and his or her designated representatives.

(b) "Buyer" means an individual or entity engaged in the purchase of walnuts.

(c) "Gleaning" means the process through which walnuts remaining on the ground following the Grower's completion of the harvest are gathered with the permission of a Grower and with the approved Proof of Ownership certification.

(d) "Grower", in context of this Article, means the person who has personally, or through the employment of others, grown and harvested walnuts.

(e) "Non-Processing Walnut-Buying Operation" and "Non-Processing Walnut-Buying Operator" both mean a Buyer who does not have on-site processing.

*Draft Prevention of Walnut Theft Ordinance, No. 200.0*  
*Released for April 10, 2013 for Agricultural Advisory Committee*

(f) "Person" means any individual, firm, partnership, joint venture, corporation or other entity, who is buying, possessing, transporting or selling as a principal or as an agent of another.

(g) "Proof of Ownership" means:

- (1) If the possessor of the walnuts is the Grower, proof of ownership is a completed Grower's Certificate in a form approved and established by the Agricultural Commissioner. The form utilized for this purpose shall be completed and signed by the Grower.
- (2) If the possessor of the walnuts is not the Grower, proof of ownership is a completed Proof of Ownership Certificate in a form approved by the Agricultural Commissioner. The form utilized for this purpose shall be signed by the possessor of the walnuts and signed by the person who sold the walnuts to the person in possession.

(h) "Seller", in context of this Article, means a person who sells or attempts to sell walnuts to a Buyer.

(i) "Walnut Buying Period" means the period of time commencing the day after the date declared by the Agricultural Commissioner to be the end of the harvest of the Chandler variety of walnuts. The commencement of such period shall be proclaimed by the Agricultural Commissioner seventy-two hours in advance by press release. The Agricultural Commissioner shall consult with a committee of walnut growers prior to making such proclamation.

**Section 14-163. Non-Processing Walnut-Buying Operations/Walnut Buying Period.**

Non-Processing Walnut-Buying Operations shall not buy walnuts within the boundaries of Kings County until the commencement of the Walnut Buying Period as established by the Agricultural Commissioner.

**Section 14-164. Proof of Ownership Certificate/Grower's Certificate.**

(a) Every person in possession of raw and/or unprocessed walnuts is required to have Proof of Ownership, unless exempted in Section 14-170. Proof of Ownership shall be in the form of a Proof of Ownership Certificate or Grower's Certificate as described below:

- (1) Proof of Ownership Certificate. The Proof of Ownership Certificate form, to be used if the possessor of walnuts is not the Grower, shall contain the following applicable information:

*Draft Prevention of Walnut Theft Ordinance, No. 200.0*  
*Released for April 10, 2013 for Agricultural Advisory Committee*

- (i) Name, physical address (not a post office box), telephone number, and signature of the Seller.
- (ii) Name, address, telephone number, and signature of the Buyer.
- (iii) The vehicle license plate number of the Seller.
- (iv) The driver's license number of Seller.
- (v) The weight of the walnuts purchased.
- (vi) The date and time of the transaction.
- (vii) The variety and condition, for example in-hull versus hulled, of the walnuts.
- (viii) Specific identification of the source of the walnuts being sold. This shall mean, if the Seller is the grower of the walnuts, the address at which they were grown. This shall mean, if the Seller is not the Grower, the name and address and phone number of the person from whom that Seller obtained the walnuts, and, if known, the address, or assessor's parcel number, or other identifying information for where the walnuts were grown.

It is the responsibility of a Buyer to obtain the requisite information to permit completion of the Proof of Ownership Certificate forms. The Proof of Ownership Certificate forms shall not be valid unless signed by both the person in possession of the walnuts and by the person from whom the possessor obtained the walnuts.

(2) Grower's Certificate. The Grower's Certificate form, to be used if the possessor of walnuts is the Grower, shall contain the following applicable information:

- (i) Name, address, telephone number, and signature of the Grower.
- (ii) The vehicle license plate number of the vehicles being used by the Grower to transport the walnuts.

- (iii) The weight of the walnuts being transported.
- (iv) The date and time of the transport.
- (v) The variety and condition, for example in-hull versus hulled, of the walnuts.
- (vi) Specific identification of the site upon which the walnuts were grown.

(b) Proof of Ownership forms are only to be used to establish ownership for the prevention and/or deterrence of theft of walnuts.

**Section 14-165. Proof of Ownership Forms, Inspection, Registration and Retention.**

(a) Proof of Ownership Forms. Proof of Ownership forms shall be issued directly to Growers by the Agricultural Commissioner. A Grower who sells or otherwise transfers possession of any quantity of walnuts to a Non-Processing Walnut-Buying Operation shall complete and sign a Proof of Ownership form and deliver it to the Non-Processing Walnut-Buying Operation at the time of transfer of possession to that Operation. The Grower shall keep a copy of each Proof of Ownership form delivered to a Non-Processing Walnut-Buying Operation for two years.

(b) Inspection and Registration. Copies of Proof of Ownership forms shall be provided upon request. To facilitate inspection by the Kings County Agricultural Commissioner, the Buyer and/or agents of a nut processing plant shall register with the Agricultural Commissioner on an annual basis and comply with Business and Professions Code section 12501.1. The Buyer shall purchase and keep the walnuts at a place of business in compliance with the Kings County Building and Zoning Ordinances, until transported for resale or other handling. At the time of registration, the Buyer shall designate a processor, to which sales will be made.

(c) Retention of Records. Following any sale of walnuts, the Proof of Ownership forms shall be retained by the Buyer for a period of two years from the date of such sale. Buyers shall also retain any records pertaining to the resale of walnut to which the Proof of Ownership forms pertain for a period of two years.

**Section 14-166. Falsification of Proof of Ownership.**

It is unlawful for any person to knowingly falsify, or cause the falsification of, any Grower's Certificate or Proof of Ownership Certificate.

**Section 14-167. Vehicle Stops.**

Upon probable cause to believe that any quantity of walnuts is in the unlawful possession of any person, the Agricultural Commissioner, or his or her designee, or any peace officer may inspect the walnuts and request that Proof of Ownership be provided. Upon being stopped, the possessor of the walnuts shall provide the Grower's Certificate or the Proof of Ownership Certificate, whichever is applicable to the walnuts being transported. The possessor shall also permit inspection of the walnuts.

**Section 14-168. Seizure, Retention and Disposition of Walnuts.**

(a) Seizure and Retention. Upon reasonable belief that a person is in unlawful possession of walnuts, the walnuts which are reasonably determined to be unlawfully possessed may be seized and held by the Agricultural Commissioner, or his or her designee, or any peace officer. The seized walnuts shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in this Section. The Commissioner, or his or her designee, or peace officer shall record the date and place of seizure and information pertaining to the person from whom the walnuts were seized, and, to the extent practical, the quantity, type, condition and other information pertaining to the walnuts.

(b) Investigation. The Agricultural Commissioner, or his or her designee, or any peace officer shall investigate to ascertain the ownership of any walnuts that have been held pursuant to this Section. If the lawful owner is located, the walnuts shall be released to the owner or the owner's agent. The Commissioner, or his or her designee, may require reasonable payment, not to exceed the value of the walnuts, to cover costs incurred for storage.

(c) Disposition. If for any reason the walnuts cannot be released to the rightful owner within 48 hours after coming into the custody of the Agricultural Commissioner, or for any shorter period of time that the Commissioner deems necessary in the case of perishability concerns, the Commissioner, or his or her designee, may sell the walnuts by public auction or by private sale at fair market value to a commercial packer of walnuts. Prior to any such sale the Commissioner, or his or her designee, shall determine that the sale of the walnuts will not impair the prosecution of any person who is or may be charged with a crime related to this Article. All of the proceeds derived from the sale of the walnuts shall be held by the Agriculture Commissioner for a period of not less than six months, during which time the lawful owner of the walnuts may submit satisfactory Proof of Ownership and obtain possession of the proceeds. The Commissioner may require the payment by the owner of an amount sufficient to cover the costs incurred for the storage and sale of the walnuts, in an amount not to exceed the value of the walnuts. If, after retention of the proceeds for a period of at least six months, no demand is made or if Proof of Ownership is not supplied, the Commissioner shall deposit the proceeds of the sale of the walnuts in the general fund of the County.

(d) Donation to Nonprofit Organization. If any seized walnuts remain unsold after being offered for sale pursuant to this Section, the Agriculture Commissioner, or his or her designee, may donate the walnuts to a nonprofit organization.

(e) Destruction. If the walnuts are unfit for human consumption, the Agricultural Commissioner shall have them destroyed.

**Section 14-169. Violations.**

Any person violating any of the provisions of this Article shall be guilty of a misdemeanor, which shall be punishable as provided in Section 1-8 of this Code. This punishment is separate and independent from any punishment or penalty provided for under any other law or regulation, including forfeiture.

**Section 14-170. Exemptions.**

- (a) This Article shall not apply to the following:
- (1) Walnuts in possession of any person as a result of gleaning undertaken with the written permission of the Grower.
  - (2) Walnuts transported and accompanied by a valid permit, disposal order, or certificate issued by the Commissioner for any reason other than to comply with this Article.
  - (3) Walnuts in possession of registered Buyer or an agent of a nut processing plant registered with the Kings County Agricultural Commissioner in accordance with this Article.

(b) Notwithstanding the exemptions provided in this section, the Agricultural Commissioner, or his or her designee, and any peace officer may inspect any containment/possession of walnuts as provided in this Article and may require that information be provided sufficient to permit verification that the exemption applies in the particular circumstances.

**SECTION 2. CEQA.** The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

**SECTION 3. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after its adoption. Before the expiration of fifteen (15) days after its passage, a summary of this Ordinance shall be published once with the names of the members of the Board of Supervisors voting for and against the same in the Hanford Sentinel, a newspaper of general circulation published in the County of Kings.

PASSED AND ADOPTED by the Board of Supervisors of the County of Kings, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2013, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: Supervisors  
NOES: Supervisors  
ABSENT: Supervisors  
ABSTAIN: Supervisors

Chairman of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_,  
2013.

\_\_\_\_\_  
Clerk of said Board of Supervisors

# Proof of Ownership Certificate

**Seller**

**Buyer**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Drivers License Number: \_\_\_\_\_

Vehicle License Plate: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Weight of Walnuts: \_\_\_\_\_

Variety of Walnuts: \_\_\_\_\_

Condition of Walnuts (i.e. in hull, hulled, etc.):

\_\_\_\_\_  
\_\_\_\_\_

Source of Walnuts: Is the Seller the grower of the walnuts?

- Yes. Include the address where the walnuts were grown:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- No. Include the name, address, and phone number of the person from whom the Seller obtained the walnuts, and, if known, the address or assessor's parcel number or other identifying information for where the walnuts were grown:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

Please note that the Buyer is required to keep a copy of this form for two years from the date of sale, per Kings County Code of Ordinances section 14-165(c).

# Proof of Ownership Grower's Certificate

Name of Grower: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Vehicle License Plate: \_\_\_\_\_

Date of Transport: \_\_\_\_\_

Time of Transport: \_\_\_\_\_

Weight of Walnuts: \_\_\_\_\_

Variety of Walnuts: \_\_\_\_\_

Condition of Walnuts (i.e. in hull, hulled, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Location where walnuts were grown:

\_\_\_\_\_  
\_\_\_\_\_

Signature:

\_\_\_\_\_  
Grower

Please note that the Grower is required to keep a copy of this form if it is provided to a Non-Processing Walnut-Buying operation, per Kings County Code of Ordinances section 14-165(a).