

Coalition of Affected Business Owners

Opposition to Proposed Events Ordinance

Introduction

This submission represents CABO's written opposition to the proposed Events Ordinance. We want to thank Chairperson Christie for giving CABO the opportunity to make a 10-minute oral presentation at the July 30, 2009 Planning Commission hearing. We look forward to sharing with the Commission, the Supervisors, and the public the results of the data gathered from landowners and businesses affected by this proposal. We hope going forward to remain involved in the process and request that we be included in the review process for any drafts circulated for public comment.

We feel the data are striking, that they rebut many of the assumptions on which the current proposal is based, and that they indicate that this ordinance, if passed, will have a devastating effect on all segments of our local economy, *including* agri-tourism and agricultural production. The data were gathered from two surveys, one sent to landowners and one to businesses. The survey results are attached in a separate Appendix to this Opposition.

CABO is a nonpartisan grassroots group comprising landowners, business owners, and other County residents concerned about this ordinance. Many of us have read the various drafts and carefully listened to lengthy videos of previous hearings. We oppose this proposal not only because of what we have heard, but because of what *we have not heard. We have not heard a single reason that rings true that supports the need for this ordinance as it is worded, or the arguments made by its proponents.*

The ATC Draft Adopted Subverts the Original Legislative Intent

CABO opposes the current draft – the Ag-Tourism Coalition (ATC) draft adopted at the 2/26/09 Commission meeting -- because we do not believe that it is an honest attempt to implement the two tasks originally authorized by the Board of Supervisors:

- To expedite and streamline the events process for the benefit of the landowner, and
- To promote Ag-tourism by providing supplemental ways for farmers and ranchers to diversify their economic base and/or promote their products.

We understand that it is common practice for the Planning Commission to submit draft ordinances for review to outside interests. In this case, however, it feels inappropriate to ask a group that has consistently advocated a point of view adverse to the stated intent of the Board of Supervisors to *prepare the draft adopted by the Planning Commission tasked with implementing that same Board intent.*

Given that the ATC's co-chairs have published several articles indicating an interest in severely curtailing weddings and events on ag land and urging that farmers focus on "real agriculture" [SLO Tribune, May 14 2008 Viewpoint; Santa Lucia Sierra Club May 2008 Newsletter], asking them to "simplify" a proposed ordinance tasked with "expediting and streamlining" the event process for the benefit of ag landowners is akin to giving the foxes the keys to the henhouse.

For these reasons, we request that the "adoption" of the ATC draft be rescinded, in whatever fashion permitted by the rules governing this Commission. We further request the Board of Supervisors to issue a directive to the Commission reiterating the Board's intent to *facilitate* the ability of landowners to host *income-*

generating events on ag land, and to promote ag-tourism by *increasing* the opportunities for ag landowners to diversify their economic base.

We emphasize that we *don't* believe the Planning Commission or the Staff intentionally set out to adopt or draft a flawed ordinance or to ignore the Board's original mandate. But we *do* believe that unless and until the Commission either returns to the original authorization or receives authority from the Board to promote a very different agenda, this version of the proposed ordinance will continue to suffer from the same inherent flaws as the previous iterations.

We understand that the Commission, the Planning Staff, and various working groups have diligently worked for several years to craft this proposal, and that the persistent criticism of the various recent drafts by all parties – Commissioners, planning Staff, and the public -- was that the previous drafts were too complicated and lacked clarity. We agree. Unfortunately, the latest draft, submitted to the Commission by the ATC, is no improvement.

The ATC Draft Adopted Is Substantively Different

Prior to the Commission vote adopting the ATC draft, there were assurances from all involved that the Commission merely entrusted the previous draft to the ATC strictly to have them simplify unwieldy language and reformat the draft. At the Paso Chamber Events Ordinance Forum on 6/26/09, the ATC chair reiterated that the ATC, in performing this strictly ministerial task undertaken at the Commission's request, made no substantive changes whatsoever.

However, *at least five substantive changes in the ATC draft* go beyond inadvertence and render this draft even less acceptable than the last. The ATC draft now adopted by the Commission:

- Expands the original legislative intent;

- Eliminates a landowners ability who is not a nonprofit to hold educational activities on the land;
- Removes the 300 attendee cap for nonprofit events;
- Creates an entirely new and confusing event category;
- Dramatically expands the causes for permit revocation to include revocation if the “**permittee violates or attempts to violate any law of the state of California or provision of this chapter, or any county ordinance.**”

We Need a Better Ordinance, Not Better Scribes

From CABO’s perspective, looking at this with “fresh” eyes (as a group not previously involved in the process) the difficulties that remain in the current adopted draft are not the result of poor drafting, and thus cannot be corrected by finding better drafters.

From our perspective, *the flaws in the draft **accurately** reflect the incompatibility between the **original** legislative intent of facilitating a landowners’ ability to host events and the **misdirection** of that intent to serve the very different goals of the proponents, as achieved through the adopted draft. The misdirection is clever and skillful: it seeks to disguise the ultimate **aim** of eliminating weddings and events from ag land, by indirectly targeting the **income** from such events, and declaring (without any evidence) income-generating weddings and similar events to be incompatible with the intent of promoting ag-tourism.*

Because of this misdirection, no matter how many times you rewrite or rework this proposal, it will *never* have the clarity, simplicity, coherence and legitimacy required because it rests on faulty assumptions, uses flawed logic, and *depends* on a misdirected process. It’s as if the Board of Supervisors tasked the Planning Commission with building a bridge and, part-way through the building process, a group of people who did not want a bridge –they really wanted a wall

– offer to help with the plans. They may just change a line here and a line there, but after making incremental changes weekly or monthly for several years, at some point so many changes have been made and so many “compromises” included that it’s easy to forget both the initial goal and the circuitous route that led here and – consciously or not – somehow the plans for the bridge have been changed just enough so that there is no longer a bridge – there’s a wall -- even though it’s still called a “bridge” because that’s what the plans call for.

At this point in the process, it makes sense to ask: “who benefits?” The Commission adoption of the ATC draft, with its studied incremental changes and “minor” edits, hands the ATC a major victory in its campaign to eliminate weddings and events from ag land -- a far different intention than that originally envisioned by the Supervisors.

Intentionally or not, the proponents of this ordinance have benefited from the complexity and confusion engendered by the various drafts and iterations because the lack of clarity promotes their ability to tailor their argument depending on their audience.

When faced with landowner concerns about losing a much-needed supplemental income stream, the proponents insist that landowners have nothing to fear because the ordinance supposedly makes it “*far easier*” to have weddings, and “*increase[s] dramatically the number of parcels able to hold events.*” (ATC @ EOF 6/26/09)

To the public at large and to this Commission, the proponents argue that allowing farmers, ranchers, and growers to generate supplemental income from weddings and events on ag land is responsible for driving the loss of agricultural land in the County, that such events are like “circuses” that need to be curtailed, and that the “hope” is that eliminating the income from such events will

“encourage” the landowner to increase agricultural production and maintain their land in cultivation. (ATC @ EOF 6/26/09)

This is how the proponents have framed the issue, and because of their cleverness in framing, they have managed to drive the debate for the past two years. Who can argue with the desire to maintain agriculture land and the rural character of our beautiful County? We certainly don't. We *all* want to maintain ag land and the County's rural character, *especially* the ag landowner who relies on this rural beauty to draw people for weddings and events on his or her land.



There are two problems with the proponents arguments, one of which goes to persuasiveness and one of which is fundamental. With respect to persuasiveness, CABO suspects the proponents hope that clever framing will disguise the lack of evidence, as *they cite absolutely no evidence in support of any of their assumptions.*

The more fundamental hurdle the proponents have yet to clear is the misuse of the original legislative authority to “streamline and expedite” the event process and “facilitate Ag Tourism”, to instead

achieve a disguised agenda never contemplated by the Board's grant of authority.

The Adopted Draft Versus the Legislative Intent

The proponents are aware that the original legislative intent was to simplify and streamline the events process to make it easier for landowners to hold special events on ag land, to give farmers and ranchers more flexibility, and to promote agri-tourism.

Because they *oppose* the goal but are *limited* by the legislative intent, the proponents have hijacked the language of the intent in an attempt to *eliminate* weddings and similar events under the *guise* that such practices harm Ag-tourism. Once we understand that ruse, and the need to *pretend* to be "facilitating and streamlining" events while actually curtailing them, then the ordinance's confusing mixture of unlimited "no charge" events; a streamlined process *just for non-profits*; unlimited (albeit not profitable) events for "under 50 attendees"; or the incongruous "one giant event every 10 years" becomes comprehensible, though no less disingenuous.

The proponents must hope that, lost in the smoke and mirrors, the Commission, the Board, and an inattentive public will be persuaded to swallow the poison pill hidden in these illusory "carrots."

The attempt to misuse the authorizing language to achieve the exact opposite of the original intent also explains the persistence of complexity, confusion, and lack of coherence in the draft despite *five years* of attempts to "streamline and expedite" by the County's professional, capable, and competent planning staff. This same staff was quite capable of writing a simple, clear, and comprehensive winery events ordinance some years ago.

The confusion and lack of clarity in the current events ordinance compared to the simple, two-page winery ordinance is not the result of

less-capable planners or mysterious differences between ag-zoned wineries and ag-zoned farms and vineyards. The winery ordinance was relatively simple to write and pass because at the time the winery ordinance was written, the groups involved in the drafting effort worked to *implement* the legislative mandate, not to warp it to serve a hidden and incompatible agenda.

The Misdirection is Not Benign

The proponents are savvy and effective advocates who have learned to tailor their rhetoric to their audience. They no longer write editorials directly opposing weddings and events on ag land as they did in 2008 [See ATC article in SLO Tribune, May 14 2008 Viewpoint; Santa Lucia Sierra Club May 2008 Newsletter.] In their public pronouncements, when addressing an audience of concerned landowners and wedding professionals, they dismiss as “false” the fears expressed by landowners and affected businesses and *insist* this ordinance would *not* curtail weddings and events.

They urge landowners and businesses to embrace this proposal by promising it makes it “*far easier*” to have weddings, and would “*increase dramatically the number of parcels able to hold events*” by allowing unlimited numbers of “no charge” weddings or weddings for fewer than 50 persons “365 days a year!” [ATC @ EOF 6/26/09] As stated in CABO’s previous submission rebutting the ATC claims made at the Paso Events Forum on 6/26/09, those who actually host weddings or have event-related businesses understand that the wedding market makes these alleged “benefits” illusory.

To engender support for their proposal to ban most income-generating weddings and events, the proponents unflinchingly refer to any wedding of over 50 attendees as a large “commercialized” event,

seeking to invoke something large and noxious and suggesting that there is little difference between such weddings and public “circuses”. (Event professionals describe the average wedding on ag-zoned land as a private gathering of between 101 and 175 attendees, hosted by a private landowner for a fee, but hardly a “commercialized” event.)



Even the name, "Ag-Tourism Coalition," seems to confuse; a pre-existing "ATC" group, the "Ag-Tourism Council," was one of the original groups that sought to *facilitate* events on ag land.

The use of clever phrasing, confusing names, and complex or convoluted categories serves to misdirect our attention and distract us from asking questions that need to be asked and answered before we proceed further with this ordinance. The misdirection is *not* benign. It damages the legislative process, does not serve the public interests in transparency and accountability, and subverts the Board's authority to set policy by shifting the legislative policy setting role from the elected Supervisors to an unelected (and unaccountable) citizens' group.

The Long and Winding Road

At the February 26, 2009 meeting, this Commission revealed what CABO believes are some astonishing facts. During the discussion, the Commission stated:

the reason we got here was because several years ago, one individual landowner in Avila objected to having to get a business license to hold a large event every year. He said he didn't want to get a business license, he wanted a continuing land use permit. [Commissioner Christie]

The Commission also affirmed unequivocally that the Board of Supervisors, in tasking the Commission with this issue, *had as their intent to "expedite and streamline" the process for landowners seeking to hold events.* [2/26/09 Commissioner Christie and Commissioner White]

Also at the Feb 26 hearing, the Commission, in describing the issue of the loss of agricultural land in such places as Nipomo, *clearly placed the blame for such loss on agricultural land being subdivided to*

build houses, not on the landowner's engaging in income-generating non-ag events. [2/26/09 Hearing] (At the Paso Chamber Events Forum on 6/26/09, even the proponents of the proposed ordinance were unable to cite a single ag-zoned property where income-generating event activities were alleged to have "overwhelmed" agricultural activities.)

As far as we know *no one* has yet to answer the question, posed most recently at the Paso Chamber's Events Forum on 6/26/09: "*What is driving the need for **this** ordinance?*"

Supervisor Mecham, who moderated the Paso Chamber Forum, posted this response on his website:

The Board directed the Tax Collector and Planning staff to simplify Title 6, the Temporary Commercial Outdoor Entertainment regulations for events attended by more than 3,000 people. In addition, the Board authorized amendments to the Land Use Ordinance to facilitate Ag Tourism in response Agricultural Policies.

Although Supervisor Mecham accurately portrays the genesis of the Board's original delegation, the fact remains that *no **evidence** of need has been presented*. This is not surprising when one understands that the problem the Board asked the Commission to address was *the lack of simplicity and flexibility in the process, **not** the practice of generating supplemental income from non-ag events*.

This lack of evidence raises fundamental due process problems. Evidence presented in 2004 of the need for a simplified process for "events attended by more than 3000 people" cannot be used to support a 2009 ordinance that seeks to severely curtail income-generating events to no more than 50 attendees.

Nor can the 2005 amendment for ag tourism intended to provide positive support for the farmer and rancher to diversify through direct

marketing and ag-tourism be used as evidence of need to *curtail* events. The goal there was (again) to *simplify* the ordinance. Throughout this period *simplification* of the permit process and support for *flexibility* for the landowner are recurrent themes, and show a consistent intent from the Board.

During the multiple hearings over several years, there was no evidence presented to the Commission from the Sheriff's Office of repeated complaints from neighbors about noise from ordinary weddings and events on ag land. There was no evidence that income-generating events was driving the loss of ag land or that weddings harm agri-tourism (and indeed CABO would argue the opposite). Nothing was presented that suggested events threatened the local food supply (and indeed, CABO would argue the opposite).

Nothing appears to have driven this process initially except the intent, expressed by the Board, to "expedite and streamline" the temporary events process to facilitate requests from landowners for "*events attended by more than 3000 people...*".

For the first few years, the Staff appears to have been working to draft such an ordinance. (To use our earlier analogy, the Board had tasked them with building a bridge, and they started plans for a bridge.)

Then, it appears that sometime during 2008 and into 2009, the ATC, co-chaired by two vocal and politically savvy County residents who previously publicly decried the Board's intent to simplify the process for landowners because *they do not want* weddings and events on ag land or in rural areas, saw an opportunity to misdirect the process by redirecting the mandate for building the bridge to instead build a wall.

And lo and behold, the current proposal, far from creating the simplicity and flexibility the Supervisors intended, *tracks pretty closely* the *criticism* of that intent expressed in the ATC "Viewpoint" in the Tribune back on May 14, 2008, before the ATC worried about convincing skeptical landowners that they were actually trying to make it "far easier" to hold weddings and events and "increase dramatically the number of parcels able to hold events." (ATC @ EOF 6/26/09)

*And that's why the ATC-generated proposal adopted by this Commission will never feel fair, will never achieve consensus or legitimacy, and will never effectively accomplish the alleged goal of facilitating events and promoting ag-tourism no matter how much you tweak it, re-draft it, re-commission it, or revise it. That's really **not** the intention of those who have been driving this process. And the farmers, ranchers, and growers who oppose this ordinance may not be able to put their finger on exactly what is wrong with this particular draft or how it differs from some equally confusing prior draft, but they know something about this proposed ordinance– which is being billed as making it easier for them hold weddings and events on their land -- doesn't feel right, or fair, or honest. And that's why they oppose this ordinance.*

Public Interest Versus Special Interest

This ordinance benefits and gives preferential treatment to *one or two special interest groups under the guise of promoting a public interest*. Where does the public interest truly lie in this matter? To answer that question, you have to look at the evidence of what this proposed ordinance will do to this County – not just for the few urban refugees who don't want weddings in their back yards or the non-profits whose initial opposition was silenced in this draft by giving

them preferential treatment and a “streamlined and expedited process” – but to the County’s economy as a whole – to the farmers and ranchers and small business owners who hold events on ag lands, and to all the businesses they patronize and support that will be hurt if this misdirected ordinance passes.

Where is the *evidence* to support the proponents’ assumptions? They argue that this ordinance promotes the public interest in “preserving agricultural land in production” but they have presented *no* data, *no* evidence, *no* research, *no* studies – nothing except vague words and an even vaguer “hope” that the ordinance will do what they say it will do.

CABO’s data (presented in a separate Appendix) appear to be the only attempt to date to quantify the economic impact of this ordinance or its effects on the landowners’ ability to preserve agricultural activities on their ag-zoned land without the supplemental income from weddings and events. We have done our best to present the data accurately, to provide the Commission and the Supervisors with a starting point in any analysis of economic impact. But the data alone, while striking, do not convey the human impact of this proposal.

The fear on the faces of the farmers, ranchers, growers, business owners and working families who will be impacted by this ordinance tells the real story. Convince *them* that this proposal is intended to help them earn more income from their agricultural activities and that they need not fear the loss of their land or their livelihood.

Let the proponents *explain* how the loss of supplemental income from weddings and events will benefit farmers, ranchers, and growers because then they can focus on “real agriculture,” [ATC May 2008] or else substitute unlimited numbers of “no charge” events or low-paying

events for under 50 persons “365 days a year.” [ATC 6/26/09] Or maybe they are the lucky landowners who own the Octagon Barn and so are “worthy of community support,” [ATC 6/26/09] whereas owners of less worthy barns can just hold off doing needed maintenance for 10 years until they can earn income from one giant income-producing event.

Calling this an ordinance to facilitate events and promote ag-tourism doesn’t make it so. All the talk about promoting agri-tourism and preserving the food supply is the type of slick framing that savvy political and lobbying groups have used for years – to the public detriment – in Washington. It’s like calling a law that seeks to clear-cut our forests the “Healthy Forests Initiative”. Or one that seeks to allow coal plants to emit more pollution the “Clean Skies Initiative.”

Weddings and Events on Ag Land are Part of Ag Tourism

CABO believes weddings and non-ag special events are actually *part* of agri-tourism, and provide a wonderful opportunity for ag landowners to market their goods as well as supplement their income so that they can continue to support their agricultural activities despite the endless cycles of weather and market fluctuations.

Other states that have dealt with a rapidly increasing winery and vineyard presence on agricultural lands offer a strikingly different view from that of the proponents. For example, both Oregon and Virginia have found that weddings and events can provide a synergy with local food production and agri-tourism activities.

The Virginia report is especially instructive, and can be found at <http://www.virginia.edu/ien/docs/07FoodClassFINAL%20PAPERS/Wineries.pdf>

We include here only one relevant section, and urge our Planners and Supervisors to consider weddings and special events at ag-zoned properties as offering us the same opportunities to promote agri-

tourism and the regional food system as Virginia planners envisioned. Under the heading "Current Synergies with the Local Food System", the Virginia Report states [emphasis added]:

Farm wineries and vineyards are important components of the local agricultural economy and as the only growing agricultural sector in Virginia, they provide essential public exposure to agricultural uses of rural lands. This capacity to promote a fledgling regional food system can be carried out in either passive or active manner, although currently the industry is mostly acting in a passive way with a few notable exceptions.

. . .

The most important of the current synergies between the wine industry and the food economy is the encouragement of agritourism, or the visitation of rural value-added businesses by local, regional, or national tourists.

Agritourism has already been described above as an essential part of a winery's business plan and direct on-site sales through tasting rooms bring visitors out into rural food production areas. **By visiting the actual farm where the wine they consume is grown and produced, visitors begin to develop a romantic connection with a physical place, including the soil, vistas, and sensual experience associated with place, what has been referred to as "terroir". There are several potential results of this connection ranging from the benefits of co-locational marketing to an increased demand by tourist-consumers for local foods.**

By bringing tourists into the agricultural hinterland, wineries increase exposure to food opportunities such as roadside farmers' stands, rural markets, and other agricultural on-site sales locations that encourage consumer self-distribution. In particular, the direct interaction between producer and consumer inherent to on-site sales introduces local consumers visiting wineries to supply nodes in the local food system. While a majority of tourists to wineries are from outside the region, an increasing number of local visitors are attending special events at the wineries and as this activity increases so does co-locational exposure. There is an opportunity for further study into the

magnitude of this effect, but experiential evidence suggests there are positive benefits to co-location where it exists.¹

Increased producer – consumer interaction is a necessary link in a local food economy that seeks to remove nationally controlled distribution systems.

Wineries purchase a small but significant percentage of their wine grapes from local farmers to supplement their own agricultural production. This provides an important ancillary income for local farmers struggling to maintain a profit with conventional food crops. This creates another layer of relationships between farmers and vintners.

CABO strongly supports the view that weddings and events on ag-zoned land promote the use of local food and support local Farmer’s Markets and local growers. And to apologize for the dense online formatting of the above quotation and because we appreciate that a picture is worth a thousand words, we would add only this:





Photo Credit Lindsey Hahn Photography





And of course, local chocolate!



Photo Credit Lindsey Hahn Photography

Rural Traditions Include Plain Speaking and Honest Dealing

Until now, CABO has not participated in the planning process. We feel we have relevant data and experience both in agriculture and the wedding industry, but we don't want to waste anyone's time by participating in a misdirected process that has no resemblance to the original Board intent of facilitating the ag landowners' ability to earn supplemental income from events, including weddings on their land.

We cannot support any ordinance that does not display an *authentic* commitment to the original Board intent to expedite and streamline the events process for landowners. *We request the Board of Supervisors to reaffirm that weddings and events on ag-zoned land in this County provide an essential supplemental income stream for struggling farmers and ranchers that the County should protect and encourage as **part** of agri-tourism, and that legitimate concerns about noise and neighborhood impact should be addressed without using these issues as a ruse to eliminate the events themselves.*

On the other hand, if the Board wishes to change its original intent and instead task the Planners with eliminating weddings and events, then let the Board do so publicly and properly, and let the Commission plan openly, and let the Staff draft simple and direct language all affected can understand. That's what the requirements of accountability and transparency in our legislative process demand. But let's not adopt an ordinance that reeks of big city slickness and clever phrasing; that relies on misdirection and disingenuousness -- and then say we're doing it to protect our County's agricultural character and rural values.

The beauty of our County's agricultural traditions includes not just open spaces and picturesque farm stands, but also honesty, plain

speaking, and helping one's neighbor survive during tough economic times. We haven't had much of that in the past two years.

Submitted on Behalf of:

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