COUNTY OF HUMBOLDT

Legislation Details (With Text)

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Title:	Introduction of County of Humboldt Extraction Review Team (CHERT) Ordinance (Establishing Procedures for Appointment, Duties and Compensation Mechanism for CHERT members)				
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Attachments:	1. Staff Report, 2. Attachment 1.pdf, 3. Attachment 2.pdf, 4. Attachment 3.pdf, 5. Attachment 4.pdf, 6. Attachment 5.pdf, 7. Attachment 6.pdf, 8. Public Comment, 9. Proof of Publication.pdf				

Date	Ver.	Action By	Action	Result
12/4/2018	1	Board of Supervisors	approved as amended	Pass

To: Board of Supervisors

From: Planning and Building Department

SUBJECT:
Introduction of County of Humboldt Extraction Review Team (CHERT) Ordinance (Establishing Procedures for Appointment, Duties and Compensation Mechanism for CHERT members)

RECOMMENDATION(S):
That the Board of Supervisors introduce the attached ordinance by title and waive further reading; set the ordinance for adoption on _____, or at least one (1) week away from the date of this hearing; direct the Clerk of the Board of Supervisors to publish the pre-adoption summary of the ordinance and to post a certified copy of the full text of the ordinance in the office of the Clerk of the Board of Supervisors at least five (5) days prior to the Board of Supervisors meeting at which the ordinance will be adopted [Government Code Section 25124(b)(1)]; direct the Clerk of the Board, within fifteen (15) days after adoption of the ordinance, to publish a post-adoption summary of the ordinance with the names of the Supervisors voting for and against the ordinance and to post in the office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the Ordinance [Government Code Section 25124(b)(1)]; find the project exempt from the California Environmental Quality Act (CEQA) and direct staff to file the attached Notice of Exemption with the Humboldt County Clerk in accordance with the requirements of CEQA; and approve the draft contract to be used to formalize the duties and compensation of CHERT members and delegate authority to the Planning and Building Director to enter into the contract with all existing CHERT members and with new CHERT members upon ratification of appointment to CHERT by the Board of Supervisors.

SOURCE OF FUNDING:
Costs to prepare this agenda item and subsequent costs for CHERT activities will be borne by annual charges to surface mining operators.

DISCUSSION:
The Humboldt County in-stream gravel mining program is conducted pursuant to the Surface Mining and Reclamation Act (SMARA). In-stream mining is also regulated by the California Department of Fish and Game and the US Army Corps of Engineers. The County of Humboldt Extraction Review Team (CHERT) was formally established by the Humboldt County Board of Supervisors in 1996 as part of the Letter of Permission Procedure which permitted the Army Corps of Engineers to issue Letters of Permission (LOP) to individual gravel operators who wished to operate within the county. The LOP process expedited permitting for gravel

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mining operators in the county. The LOP procedure called for CHERT to provide services to operators operating on streams and rivers within Humboldt County. CHERT reviews annual proposed gravel extraction plans developed by the operators and their consultants, and makes recommendations to the Army Corps of Engineers, the Department of Fish and Wildlife, National Marine Fisheries Service, and other agencies with jurisdiction.

CHERT began its work for the county prior to the date it was formally established by the Board. In 1992, the Board certified a Program Environmental Impact Report (PEIR) Gravel Removal from the lower Eel River. The final PEIR required preparation of a river management plan as mitigation for gravel extraction from the lower Eel River. In 1994, the Board certified the Programmatic Environmental Impact Report on Gravel Removal from the Lower Mad River. In 1996, the Board adopted Resolution No. 96-37 establishing an Interim Monitoring Program and Adaptive Management Practices for the lower Eel River and Van Duzen River which included the establishment of a scientific team to oversee and recommend gravel extraction prescriptions for instream mining operations.

These management programs were adopted to enable on-going gravel mining operations while restricting and monitoring gravel extraction volumes to minimize degradation of the affected environment. The lower Mad River, Eel River and Van Duzen River contain multiple closely spaced mining sites. Gravel extraction from these sites has the potential for greater cumulative impacts than extraction at more isolated mining sites. The Adaptive Management Program was adopted to direct mining activities and allow intensive technical data collection and analyses of mining effects through the review of survey cross sections, air photos, hydrologic information, and biological surveys.

As originally established by Board resolution, CHERT consisted of five members with expertise in hydrology, fluvial geomorphology, fisheries, and river ecology. CHERT members provide technical expertise and reviews of mining proposals for in-stream gravel operations within the county. These reviews are a required component of the Adaptive Management Practices/Program and the Army Corps of Engineers' LOP Procedure.

CHERT provides recommendations for extraction quantities, extraction methods, disturbance minimization measures, and mitigations that tier to the Mad River, Eel and Van Duzen Rivers and PEIRs' general project design features and mitigation measures. CHERT is also concerned with possible adverse impacts to infrastructure such as levees, bridges, and the water district facilities. The Army Corps of Engineers and the Department of Fish and Wildlife also utilize the CHERT review process for assessing gravel extraction effects including impacts to listed salmonids and designated critical habitat.

The resolution forming CHERT did not specify how members would be replaced or appointed and did not codify the roles and responsibility of CHERT. Since that time, one CHERT member has passed away and one has resigned.

The county is at a place where the members of CHERT have served for a long time and there is no mechanism in place to fill vacancies on CHERT. In addition, to creating a mechanism to appoint new members, it is appropriate to codify not only the appointment process but also the roles and responsibilities of CHERT. To this end, Planning and Building Department and County Counsel have developed the attached draft Ordinance establishing procedures for appointment, duties and compensation mechanism for CHERT members. The ordinance would add Chapter 2 of Division 9 of Title III of the Humboldt County Code.

Because this Ordinance only establishes procedures for appointment, duties and compensation for CHERT members and does not specifically address any one development project, staff believes that the finding can be made that the ordinance could not, in and of itself, have a significant effect upon the environment. When instream mining plans subsequently come forward for review under the regulatory process, they would be subject to full environmental review at that time. The department has prepared a Determination of Non-Project Status (See Attachment 4) finding the enactment of the Ordinance to be exempt from environmental review under CEQA.

Planning staff finds that the draft Ordinance addresses the need to incorporate these CHERT procedures into Humboldt County Code.

Finally, a draft contract for CHERT members is attached as Attachment 6. Planning staff seeks Board approval of the draft contract and a delegation of authority to allow the Planning and Building Director to enter into the contract with all existing CHERT members and future CHERT members upon ratification of appointment to CHERT by the Board.

FINANCIAL IMPACT:
Adoption of the proposed ordinance will have a minimal net impact to the county General Fund.

Today's recommended actions support the Board's Strategic Framework by seeking to efficiently enforce the Humboldt County Code and other local and state laws and regulations to protect residents.

OTHER AGENCY INVOLVEMENT:
On August 2, 2018, the Planning Commission recommended the Board of Supervisors adopt the CHERT Ordinance (Attachment 5).

ALTERNATIVES TO STAFF RECOMMENDATIONS:
The Board could change the proposed Ordinance by modifying the text to adding additional clarity or to be more restrictive.

ATTACHMENTS:
1. Proposed Ordinance adding Chapter 2 to Division 9 of Title III of the Humboldt County Code relating to the County of Humboldt Extraction Review Team.
2. Pre-Adoption Summary of the Proposed Ordinance.
3. Post-Adoption Summary of the Proposed Ordinance.
4. Determination of Non-Project Status under California Environmental Quality Act.
5. Notice of Planning Commission Recommendation.
6. Draft contract to be used for the appointment and compensation of CHERT members.

PREVIOUS ACTION/REFERRAL:
Board Order No.: L-3.
Meeting of: May 14, 1996

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