



ATTN: Humboldt County Administration Officer and Director of Human Resources  
Humboldt County Courthouse  
825 5th Street,  
Eureka, CA 95501

RE: Formal Complaint and report of improper behavior by Planning Commission Chair Bongio and unfair treatment of Bear River Band of Rohnerville Tribal Historic Preservation Officer Melanie McCavour due to her position as an At Large Planning Commissioner.

He'balou' Humboldt County Administrative Officer and Director of Human Resources,

This letter represents a formal complaint on behalf of the Wiyot Tribe due to the behavior of Chair Bongio, of the Humboldt County Planning Commission during the meeting held August 18, 2022. Mr. Bongio acted inappropriately using racist and offensive language when discussing permit-Record# PLN-17762, Schneider Coastal Development Permit Modification.

Mr. Bongio created a hostile environment for Tribal Government staff in performance of their duties in accordance with the National Historic Preservation Act of 1966, the California Coastal Act of 1972, the Native American Graves Protection and Repatriation Act of 1990, AB 52 (CEQA Guidelines) for protecting Tribal Cultural Resources, NHPA Section 106 Tribal Consultation and state law governing tribal consultation by cities and counties.

Brown Act (Chapter V, 54953.2 54961) requires that "Meetings may not be conducted in a facility that excludes persons on the basis of their race, religion, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase." The combination of statements made by Bongio from the dias that night and his repeated accusations that Tribes were not present when they were not required to be--as their comments were presented in advance of the meeting in accordance with the Planning Commission protocols posted on their website and their agenda, and that they were in attendance is a clear violation of this section of the Brown Act.

His presentation and reordering of the Council agenda showed bias and unfair treatment. During the meeting he made numerous Ex Parte disclosures that demonstrated his clear prior discussions with the individual developer, whose permit was pushed onto the agenda and moved up on the agenda at the discretion of the Chair. It was very clear from the onset that Chair Bongio was biased towards moving the permit modification forward despite the law or judicial impartiality.



The staff report shows that the comments from Bear River Band of Rohnerville Rancheria's Tribal Historic Preservation Officer (also a seated Planning Commissioner Melanie McCavour) were not submitted in writing by the deadline of August 17, 2022 at noon and were submitted on the August 18, 2022. Additionally, at the start of the meeting when Melanie McCavour recused herself it was clear that she and the chair had spoken previously and that she would be making herself available to answer questions from the Commission. According to the Brown Act, "the Commission may establish general procedures for public comment such as specifying reasonable time limits on particular topics, provided those measures are fair to the members of the public." This is a public meeting of the Humboldt County Planning Commission. Blue Lake Rancheria and Wiyot Tribe made comments in accordance with the Protocols of the Commission.

A Tribe, or any member of the public, for that matter, should not be singled out and shamed for following the protocols while another is given an opportunity to submit their comments late. To quote Chair Bongio,

*"and where are all the Tribes, if this was so big of a deal to them, there is not one in this audience, not one representative, the only person from a Tribe was Melanie McCavour who called in as the THPO from Bear River, because that is what you do when you have something like this. Where is the THPO from Blue Lake and Wiyot? And how about Mr. Ramos who puts his name on things but where is he at? If it is such a big deal, where is it?"*

This statement was false, the Wiyot Tribe did have representation at the meeting. Also, there is not requirement to speak public comments at the meeting or even attend the meeting--Tribal Historic Preservation officers are not the staff of the Planning Commission. These comments were incredibly disrespectful and disgraceful.

According to the Board of Supervisors Code of Conduct and ethics as updated on May 18, 2022,

*"while it is understood that Board members enjoy First Amendment rights, they should practice civility and decorum in discussion and debate, and refrain from abusive conduct, personal charges, unsubstantiated allegations, disclosure of confidential information or verbal attacks upon the character or motives of other members of the Board of Supervisors, Boards, Commissions, staff or the public which has the effect of disrupting the County's business and bringing the County government into dispute."*

Chair Bongio continued to violate Section B3 of the Board of Supervisors Code of Conduct and Ethics by going on to say, "The Tribes won't tell you exactly where these things are because they want to be so secretive so that nobody goes and loots them, I get that, but when you put that on somebodies' property and don't tell them where it is, then you accidentally go over and cut into that area." The Wiyot Tribe did not put a historic village site on Mr. Schneider's property. Mr. Schneider put his project on a Wiyot Village site. The Tribe worked with the Planning staff to identify the site and helped to develop the conditions to the permit for which Mr. Schneider violated.

When the chair began repeating, "*where are the Tribes, if this is so important to them*" Michelle Vassel, the Wiyot Tribal Administrator was trying to make her presence known as she raised and lowered her hand and logged off and logged back on to get the attention of the chair. Director Ford even reached out to her via email and she responded to him during the meeting. The Tribe had not



intended to speak, as our comments were submitted in writing to the Commission, however when the statement was made and repeated, Michelle Vassel started trying to make herself known. She was signed in with her name, title and Tribe she represented. So even though it was egregious to demand Tribes be there in person to answer questions, it was especially demoralizing to see Planning Commissioners repeat this falsehood that the Wiyot Tribe was not there.

Bongio at the meeting said he reached out to Melanie McCavour to ask why their comments were not submitted by the deadline prior to the meeting. While Melanie McCavour did recuse herself from the meeting it was clear that due to her position on the Planning Commission, she was given special treatment by the Chair. This created an appearance of discord between the Tribes whose Tribal Historic Preservation Officers have more than 20-year track record of working together to handle these very sensitive matters. If you question this special treatment, ask the question, "Did the Chair of the Humboldt County Planning Commission ever reach out to Erika Cooper, Tribal Historic Preservation officer for Bear River Band of Rohnerville Rancheria for more than 8 years, to ask her to submit comments on behalf of the Tribe in advance of a meeting?" Furthermore, "has any Commissioner of the Planning Commission ever contacted any of the Tribal Historic Preservation Officers to ask them why they hadn't or if they would submit comments on any permit on an upcoming agenda prior to one of their own commissioners becoming a Tribal Historic Preservation Officer while seated on the Commission."

State law prohibits public officials from holding multiple offices at the same time that subjecting them to conflicting loyalties. California Code, Government Code - GOV § 1126 states,

*"(a) Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b)."*

The combination of Melanie McCavour's employment with the Bear River Band of Rohnerville and her status as a Humboldt County Planning Commissioner caused Chair Bongio and County staff to accord her special privileges which were exploited during the meeting held August 18, 2022 regarding permit-record# PLN-17762. This special Treatment was demonstrated by allowing Bear River's comments in a day late. Those comments were included in the staff report. The chair reached out to Melanie McCavour prior to the meeting and asked her to speak on behalf of Bear River Band of Rohnerville Rancheria, while he did not reach out to the two other Tribes. She was sent copies of the comments by the other Tribes in advance of the meeting. Blue Lake Rancheria, and the Wiyot Tribe received Bear River Band of Rohnerville Rancherias comments eight days after the meeting on Friday August 26, 2022 only after sending a request to County staff. A citizen present presented her comments in person by bringing 15 copies to the meeting as per the protocols, while Bear River did not bring 15 copies of their comments to the meeting--more evidence of special treatment. This citizen was later taunted by the Chair for her comments, and accuse of starting the whole thing (referring to the applicant getting caught for violating his conditional permit).



Furthermore, Mr. Bongio's conduct at the meeting violated the Board of Supervisors Code of Conduct and Ethics as updated on May 18, 2022, Section A that, "public officials be independent, impartial and fair in their judgement and actions."

Chair Bongio stated Sometimes the word fits, and there may be some places where the word does fit, "everyone came to an agreement and using the word someone else said they reneged, I have something else, I have a different term for it, you know whatever." Though he did not speak the word, he implied the abhorred term "Indian Giver" and it was offensive. Wikipedia provides a definition as follows:

*"Indian giver is a pejorative expression used to describe a person who gives a "gift" and later wants it back or who expects something of equivalent worth in return for the item. It is based on cultural misunderstandings that took place between the early European colonizers and the indigenous people with whom they traded. Often, the Europeans viewed an exchange of items as gifts and believed that they owed nothing in return to the indigenous people. On the other hand the indigenous people saw the exchange as a form of trade or equal exchange and so they had differing expectations of their guests."*

Use this term is considered an insult to many Indigenous people and is usually spoken with the intent of an insult. He spoke rather lengthily on the fact that he had been following this permit closely with the developer showing his bias to the applicant. There were numerous personal attacks on the Tribes who were labeled liars which were said to have made a legal contract and then reneged. Again, this shows his blatant disrespect and insensitivity for Tribal Governments. There was a general consensus of the overarching themes of the conditions by Tribal staff and consultants who attended a meeting however the detail still needed to be worked out. The in-group bias is evident in the process when you examine how each party is treated. County staff are expected to attend the working group and later seek approval from the Planning Commission, the applicants lawyer attended the meeting working group is expected to seek approval from his client. The County acted without the expectation that these tribal staff and consultants would need approval from the **Sovereign Nations** for whom they represent.

Additionally, while tribal staff saw this a great starting point, without a confirmation from our Tribal Governments, the Planning commission agenda and the Planning department was surprised when Tribes did not agree. Chair Bongio then publicly declared the Tribes, "Liars," and said to have "reneged" on a legal contract. This was never a legal contract Tribal staff do not have the authority to legally bind the tribal government without Council Approval. Commissioner Peggy O'Neil stated this in the meeting, and she was correct. Again, this type of unfair treatment of one government by another is an act of discrimination because it is a tribal government.

Per the Board of Supervisors Code of Conduct and Ethics, public officials elected and appointed must "comply with both the letter and spirit of the laws and policies affecting the operations of Government," and Chair Bongio made numerous statements sharing his personal disdain for the National Historic Preservation act of 1966, The Native American Graves Protection and Repatriation Act of 1990, AB 52 for protecting Tribal Cultural Resources when he exclaimed,

*"Getting back to the 11 points, they agreed on all eleven points except for Bear River disagrees with the Blue Lake Tribe and Wiyot Tribe that whether you dig up the resources or whatever they are bodies, somewhere I heard that it was just a kitchen area or something they thought it was,*

*some kind of a setting, I don't know. I talked to many Tribal members, many different Tribes, Tribes that aren't involved with this, Yurok, Hoopa, and pretty much the consensus when you do research on the internet is pretty much what Melanie said, the last resort is you dig."*

Tribal Historic Preservation Offices (THPO) are officially designated by Tribes and serve the same function as a State Historic Preservation Office, they advise federal, state and local agencies on the management of Tribal historic properties and instruct municipalities on Section 106 reviews to represent tribal interests. The only Tribe Chair Bongio should be consulting with are the Wiyot Tribe, and Wiyot area Tribes, not Yurok and Hoopa as this is Wiyot ancestral territory and a Wiyot Village site. This statement was another example of Chair Bongio inciting discord between tribes and an example of racism, where a random anonymous citizen of an unrelated tribe is asked to make statements on behalf of all Tribal people instead of experts such as Tribal Historic Preservation Officers representing the appropriate Tribe. There is a phrase for this called tokenism, the practice of making only a perfunctory or symbolic effort to do a particular thing, especially by recruiting a small number of people from underrepresented groups in order to give the appearance of sexual or racial equality.

Chair Bongio disregarded these laws when these statements by Chair Bongio showed a complete lack of respect for laws related to Tribal Cultural Resources. The Native American Graves Protection Act laws were put in place to combat the potential destruction of culturally and historically significant properties and to consider the consequences that proposed actions would have on historic properties. When the Native American Graves Protection and Repatriation Act of 1990 was passed, Congress recognized that human remains of any ancestry must at all times be treated with dignity and respect. AB 52 was passed to promote the involvement of California Native American Tribes in the decision-making process when it comes to identifying and developing mitigation for impacts to resources of importance to their culture.

Would his comments be different if the applicant mowed over Independence Hall in Philadelphia, Pennsylvania where the declaration of Independence and US constitution were signed? Maybe if the applicant used a CAT 310 Excavator at the Gettysburg Battlefield he might understand. Regardless, Chair Bongio showed a complete disrespect for the law, which was meant to protect sites like the Wiyot village at Da'dedi'Ihl. The applicant violated his Coastal Development Permit and Humboldt County Planning office failed to protect the site.

Furthermore, Mr. Bongio continued his disregard for the law by stating, "Nothing will happen in Humboldt County because everyone is going to be afraid...Pretty soon, the next thing you have to do is you'll have to go before—and you already do- have to go before the Indians. But it's just gonna be a whole new thing that everybody has to go through every time there's a project. You name it, whatever it is, you'll have to go before them. And the Coastal Commission. This is, this has went way too far. This should have been stopped a long time ago."

The Chair also showed his disdain for the Coastal Act,

*"I'm not saying that was right but it that is the case are the briar police going to go after everybody. This is very troubling to me, these are trust agencies and they went after one individual, I have lost all trust in the Tribes from what I have watched, its going to take a lot to rebuild that for me. These are our trust entities, we need to listen to these guys like Fish and Game, Coastal Commission, is*



*that a Trust agency, but when they are doing their personal agendas and not doing the job of the people it is troubling."*

Regardless of the outcome of this permit, we are submitting this formal complaint and report of improper behavior by Planning Commission Chair Bongio and unfair treatment of Bear River Band of Rohnerville Tribal Historic Preservation Officer Melanie McCavour due to her position as an At Large Planning Commissioner in the hopes that the County of Humboldt Government will take action. Chair Bongio's conduct the night of August 18, 2022 was shocking, shameful and prejudice and I hope not reflective of the Humboldt County Government.

Juwaks,



Michelle Vassel  
Tribal Administrator



Vanessa Rios  
Council



Theodore Hernandez  
Tribal Historic Preservation Officer/Chair



Hazel Garcia  
Council



Brian Mead  
Vice-Chair



Aaron Stephenson  
Council