

MARIPOSA COUNTY

Code Compliance Advisory Committee (CCAC)

MEETING #41 FINAL MINUTES

(Approved 7/12/24 with Amendments)

DATE: February 14, 2024

TIME: 1:00 - 4:00 PM

LOCATION: Board of Supervisors Chambers, 2nd Floor
5100 Bullion Street, Mariposa CA 95338

1. **Call to Order and Roll Call.** Colleen Rhodes, Chair, opened the meeting at 1:10 p.m.
Members Present: Kris Casto, Robert Fox, Chris Lowey, Shelley Cummings, Ken Melton, Gabe Edwards, Colleen Rhodes, Lydia Clary and Nancy Cordero.
County Staff Present: Planning: Steve Engfer, Carol Suggs, Bart Conner; Environmental Health: Kerri Gibbons and Mariaelana Ybarra-Frausto
Members of the Public: Justin Barnard, Mary Ann Fox, Al Golub, Madison Kirkpatrick (Gazette)
Chair Rhodes welcomed new members: Lowey, Cummings and Cordero and thanked members Edwards and Clary for their service on the committee.
2. **Public Comment on Non-Agenda Items:** For items within the jurisdiction of the Code Compliance Advisory Committee and not on today's agenda. No action will be taken on non-agenda items.

Comment was received by Committee Member Lydia Clary.

Clary stated that she wanted an opportunity to speak about her observations regarding code compliance in Mariposa County. She has served from the CCAC's first meeting, and this meeting is her last as a member – at least for now. She prepared 2 ½ pages of information that is very important.

In April 2021, she obtained an over-the-counter permit to replace an electrical pole. The permit fee included not only the fee for the pole replacement, but also an extra \$145 for the issuance of the permit, which made it surprisingly expensive, just under \$400 total. She asked why there was an extra \$145 fee. The county's reply was, "because we issued a permit." Fees are supposed to be based on the cost of providing service. Charging such a fee is not right unless it's applied only to very large projects. A water heater fee of \$169 is almost doubled when the \$145 issuance fees is also charged, which it apparently always is. How is that fee warranted? She subsequently met with CAO Kimble and Supervisor Smallcombe but couldn't get an adequate explanation. No one has been able to justify charging that over-the-counter issuance fee.

She's been working in building since 1990, over thirty years, and recently retired. She was a Building Director. She volunteered to join the CCAC. After the first meeting she could tell that some staff didn't understand the Health and Safety Code. On November 9, 2021, had a conversation with Miranda about the benefits of adopting the Uniform Code for the Abatement of Dangerous Buildings because it contains all the essential elements to comply with state law and make code enforcement more effective. She has handled many code compliance issues during her career. There must be due process.

During meetings, the CCAC repeatedly was told that code compliance procedures “have no teeth.” Learned that there were over a thousand outstanding violations, many of them building without a permit (BWOPs). Many of the cases were old, so old that they need to be gotten rid of.

Many of the old BWOPs may be characterized as “existing nonconforming” and can be eliminated from the list unless the property owner wants to do something new.

A Building Official should have some years of experience to be able to assist the property owner if it's conventional construction and help keep them from requiring an engineer. Look at the structure all the way down to the foundation. If it's conventional construction, you won't need an engineer. Talk to people; work it out; get it resolved. The Building Director's policy – that came out after the CCAC was formed – is that all BWOPs have to be engineered, no exceptions. The Building Director needs to have enough experience and knowledge to be able to use discretion; not all projects need to be engineered. Why would the public even consider coming in for a permit if everything must be engineered?

Here, code compliance is under Planning, but there are other departments that are more involved: Building, Environmental Health, Fire, the Sheriff. They all need to be involved.

Everyday violations should be resolved timely. When people are living in a camper trailer, in violation of title 15, where are they going to the bathroom, getting rid of their garbage? That's a slam-dunk, a clear violation. We were told in one such case that there were no violations, but the violations were obvious and were defined in the Mariposa County Code. That one case took more than six months to resolve.

The county's use of a “Notice of Intent” is a big problem. In all her years she had never heard of such a notice in any other jurisdiction. State law provides for a “Notice to Abate” or “Notice and Order to Abate” which have legal effects, are state law authorized, and are used throughout the state. The ordinance that created the “Notice of Intent” could have been changed in three months. It's been two-and-a-half years, and the code still hasn't been changed.

In most jurisdictions, you get a hard card permit and a final at the end. A final is a final is a final. Here it's in triplicate and you can't even read it. At the end, no one signs it. Some of those violations, do you know if the property owner is the one at fault? Did the county just fail to finish the process? There are too many things that could make that permit process fail and lead to a violation being charged.

Due process. Without it you have nothing. This county has one of the highest appeal fees she could find. Over \$1,200. That's one way to keep the number of appeals down. Why is it so expensive? Planning appeals can be expensive to conduct and may warrant a higher fee, but not a building appeal. The Health & Safety Code provides for due process.

Mariposa County Code has penalties under 15.10.260. The penalty can be three to ten times the permit fee. The state codes are specific.

She usually doesn't give up on things. She feels that the CCAC's recommendations have been unappreciated. Gabe had the vehicle abatement code all spelled out. It's still not implemented after all this time. The Board of Supervisors wanted this committee. The Supervisors don't think the CCAC is accomplishing anything. There have been claims we're spending a lot of staff time. There's a lot of volunteer time too, but nothing the CCAC brings up gets reported to the Board. Pressure is now being applied by the Board, but we've been working hard all along without our valuable work being reported to the Board.

Read the codes. Deal differently with people. The Assessor's office turned in a case about a new owner and code compliance sent a letter telling her they would get an inspection warrant if she did not contact them within ten days. You have to go to a judge for an inspection warrant. That kind of thing should be a last resort, for high level cases.

Approach people and work with them. There are already plenty of fines. Mostly, you want people to get a permit and be safe. People won't be able to pay the fines and make the repairs. The first priority is that people need to be safe.

The Chair said that over Lydia's objections, she was going to let everyone know that Lydia Clary has been nationally recognized for her work as a building official and was named the California State Building Official of the Year recently. She has made tremendous contributions to the CCAC's work and her concerns are legitimate. If we all revisit her comments over time, we will benefit from her wealth of knowledge. (Members applauded)

3. **Minutes:** Committee Discussion Regarding Minutes. Rhodes moved item to later in the meeting.
4. **Discussion and action:** Provide CCAC Comments for County Code Compliance Program Options for inclusion in the future Board of Supervisors agenda item packet tentatively scheduled for March 19, 2024.

Planning Director Steve Engfer provided a presentation. [long pause for technical difficulties interrupted Engfer's presentation for several minutes; no business was conducted until audio was restored] A few clarifying questions were asked.

There was no public comment.

Discussion was held regarding the various options, with several members offering background information.

Fox asked about Option 1 and indicated he believes it's a non-starter. Rhodes added that if enforcement were done using the Title 1 provisions that already exist, they could be kept minor with minimal impact on the court and county departments if citations were issued as infractions. The DA doesn't have to appear and the burden on the court can be kept very limited. Also noted that the Health & Safety Code, which is a well-developed set of codes that provides for abatement, fines, fees, reimbursement to the county for its costs, and due process protections, isn't shown as included in Option 1 even though it is already available to county staff. Also, under "other considerations" the statement that the success rate is about 50% based on these enforcement mechanisms is not correct since these methods are not used currently. Infractions never involve jail time. The Health & Safety Code provisions do not require what is indicated under Option 1. Overall, this option has too many inaccuracies and is misleading. Engfer has no response to these comments. Edwards asked if Option 1 is intended to reflect the current process. Engfer said yes. Edwards asked if an additional line could be added to the chart to indicate which options require the adoption of policies and procedures and such. Maybe it could be called Status Quo. The point Rhodes said she is attempting to make is that the current codes are not used. Any successes under the status quo occur because some property owners are compliant without use of any enforcement mechanisms. In addition, if you look at the actual case files, you will find many of them in which there has been no contact with the property owners for years. As Fox has said, understand the problem before you attempt to define the solution. The CCAC has been dedicated and has utilized a range of skills to understand this subject. This memorandum is misleading and should not go to the Board in this form. Melton said he agreed and thinks that the way to diagnose what the problems are is to review the case files. Edwards asked about recognizing that the existing code compliance practices have been flawed. The CCAC has repeatedly inquired but has not been able to find out to what extent the Health & Safety Code is utilized in this county. It has not been used well in the way that it can be used. We need an

honest assessment of what is being done currently, what tools are being used, and what additional tools are needed.

All these failures to utilize existing code need to be understood. Why isn't it used? Why is there a desire for new and different code? The answer that "we have no teeth" cannot be the truth. There is a different answer that we haven't been able to find out. The existing codes are not implemented, not used. If that is incorrect, please say so. Staff apparently feels they need other tools. One of the things that leads to failure is that we don't use the existing codes.

Melton would like to look at cases and existing codes and focus on one specific area at a time until we get it done.

Engfer indicated that, as Rhodes pointed out, Option 1 is missing some pieces. What he's heard so far is that the problem of not applying current structure and the Health & Safety Code needs to be taken into account.

Comments were invited regarding Option 2, which is based on Mariposa County Code 15.10.260. It was noted that the Board of Supervisors discussed MCC 15.10.260 on December 7, 2021. At that meeting, then-Planning Director Williams said that the fines in parts A and B have never been utilized even though that provision was adopted November 9, 2010. But the penalties in part C have been charged. So, the provision that allows a penalty of up to ten times the permit amount has been utilized. Whether the needed due process protections are present is another question that needs to be addressed, perhaps by County Counsel. There is an amnesty program that is referred to in MCC 15.10.260. The Board on December 7, 2021, requested an amnesty program. The CCAC could put something along those lines together very quickly.

Edwards asked which state codes authorize the high penalties and fines that are included in MCC 15.10.260. Engfer addressed the ordinance that was brought forward in 2010 that adopted MCC 15.10.260. Edwards added that the language of 15.10.260 can seem predatory and should be looked at very closely. If Option 2 is a fines program, there needs to be considerable discussion before it is adopted.

Option 3 is a Tiered Compliance Program.

Rhodes stated that Option 3 is incorrect in that there is no action required by the Board to implement the Penal Code and the Health & Safety Code. They are the law, and they apply here as they do in all California counties, without further action of the Board. By contrast, Government Code 25845 is an administrative abatement provision that does require adoption by ordinance by the Board if it is to be used. The CCAC need to always be aware of the needs of the government entity to fulfill its duties and of the needs of the people, which may be in some conflict. Government Code 53069.4 is an administrative fines program. Rhodes thinks that an amnesty program needs to be included in Option 3 and that it could be made very simple. There is a way to structure such a program that still charges permit fees but forgoes fines and unjustified fees.

Casto doesn't understand why the document can't use some of the terms about treating property owners with respect and courtesy throughout all the Options. Perceives the need to reach out to residents under all arrangements. Engfer clarified that the Options are meant to be distinguished by the codes they recommend, and that every option will include education and outreach. The steps will have to be clear in the final document.

Cummings asked about using what is currently in the code and combining that with assessment of the existing cases.

Option 4 is a combination of Options 2 and 3.

Engfer said that from what he's hearing today, Option 4 is a nonstarter. He believes that input from the CCAC has been critical in leading him to this conclusion.

Edwards stated that the proposal needs to include amnesty and abatement.

Rhodes stated that code compliance is too expensive in this county. We already pay for too many people to accomplish too little work. In a county of 17,000 people, a bloated bureaucracy that looks to the people to pay its costs is most unwelcome. We need to be very cautious about the road that code compliance seems to be on.

Engfer stated that there are needs that the Board should be aware of for function. If there's going to be code compliance employees, we need to be aware of that. The job description doesn't address that now.

Edwards stated that he thinks one of the county's needs is to read the code, then document the business processes, and that should be Option 1. Rhodes said they're not in disagreement, but that she has a problem with bloated bureaucracies that don't get the job done.

While there was no formal action, the Committee provided comments to Engfer in order for him to include in the future Board Agenda Item.

Prior to proceeding to Agenda Item 6, Engfer left to retrieve Environmental Health staff, Rhodes then proceeded to Agenda Items 3 and 5.

3. Minutes: Committee Discussion Regarding Minutes.

Rhodes provided history of minute taking for the CCAC and stated that as there is no dedicated CCAC Secretary, Planning staff will produce Action Minutes and audio is available online.

5. Informational update: ARPA funds status and County funding for future Code Compliance activities.

Per Rhodes due to lack of funds availability this item will be stricken from future activities.

Rhodes stated that soon after being elected Chair, she emailed the CAO and was advised that the

ARPA funds have been withdrawn. Engfer added more information in response to a question from Casto.

6. Discussion Follow-Up Case Study of Illegal Occupancy of RV.

Environmental Staff Mariaelana Ybarra-Frausto and Kerri Gibbons provided an update as did Code Compliance Technician, Bart Conner.

Ybarra-Frausto went out to the RV. There was no one there. Gibbons stated that 72-hour notice will be given Friday. Staff believes that due to the rain, the RV may be difficult to move. Conner stated that he has been in contact with the owner of the property who wants the RV occupants off the property. A neighbor has generously given permission to move the RV utilizing her property. Staff will be there Friday to 72-hour tag it. They will go out with the Sheriffs and get the occupants out. Cummings thanked all three staff and asked about the garbage remaining on the property. Conner answered that the garbage is a civil issue, but that Environmental Health will need to go out and assess the condition. Rhodes thanked Conner for being so responsive to the community and keeping people so well informed.

After this discussion Rhodes went back to discuss Item 5 and comments were made by Engfer and Casto.

7. **Discussion and Action:** CCAC Priorities for 2024. Tabled.
8. **Information Item: Outside Agency Code Compliance Related Information-** Kris Casto. Tabled.
9. **Updates:** Tabled.
 - a. County staff changes.
 - b. Legislative updates.
 - c. CCAC member applications.
10. **Discussion: First Draft of 2023 Annual Report to Board of Supervisors.** Tabled.
11. **Adjournment:** Prior to the adjournment there was general discussion from Melton and Edwards.

By Motion of Edwards, Seconded by Clary, the Code Compliance Citizens Advisory Committee adjourned the meeting at 4:14 p.m. 9 ayes, 0 nays. Motion passed.

Respectfully Submitted by:

Carol Suggs
Executive Assistant
Planning Department