

MARIPOSA COUNTY

Code Compliance Advisory Committee

MEETING #27 DRAFT MINUTES

DATE: May 3, 2023

TIME: 2:00 - 4:00 PM

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

1. Call to Order and Welcome at 2:00 p.m. by Chair Woblesky.

CCAC Members Present: Kris Casto, Lydia Clary, Gabe Edwards, Robert Fox, Ken Melton, Colleen Rhodes, Cassandra Beth Scaffidi, and Karen Woblesky.

CCAC Member Absent: None.

County Staff Present: Steve Engfer (Planning), Corrina Miranda, Debbie Willis (Building, partial meeting).

County Supervisor Present: Miles Menetrey.

Public Present: Al Golub.

Chair Woblesky welcomed Supervisor, members, guest, and staff and announced the presence of a quorum.

2. Approve Minutes of CCAC Meeting #26, 4/19/2023.

Members reviewed the minutes and suggested no modifications.

Motion by Edwards to approve the minutes as submitted.

Second by Scaffidi.

Motion passed. 7 ayes, 0 nays, 1 abstention (Fox; absent 4/19).

3. Review/Discussion/Possible Action re: Draft Resolution 2019-218, Exhibit 2, Chapter 1.42, Abatement of Nuisances

Agenda packet includes:

- CCAC 4/18/2023 PPT Slide #12: CCAC Ad Hoc - Code Compliance Case Log Review - 2019-218
- 1.42.030: Nuisance - Defined
- CA Civil Codes - Nuisance Defined

This item was postponed until next meeting.

4. Final Review/Discussion/Possible Action presented by Lydia Clary re: Updated County Codes, County Ordinances, and County Resolutions and Recommend Changes to the Board of Supervisors Agenda packet includes: - Updated County Code 15.10.240 Notice of Non-compliance
- Updated County Code 15.10.050 Expiration of Building Permits - Updated Ordinance 2020-1153 Post Disaster Recovery - Updated Ordinance #1173 - Updated Resolution 92-525
- Updated Resolution 2019-731

This item was postponed until next meeting.

5. Final Review/Discussion/Possible Action presented by Gabe Edwards re: New Vehicle Abatement Ordinance and Board of Supervisors Recommendation to replace County Ordinance Chapter 8.32 Agenda packet includes: New Vehicle Abatement Ordinance

This item was postponed until next meeting.

6. Discussion/Possible Action re: Next Steps in CCAC Work Plan

Agenda packet includes: - CCAC Priority and Work Plan, Effective 3/15/2023

Chair Woblesky advanced this item ahead of agenda items 3, 4, and 5.

Edwards went over the CCAC's purposes as described in the Board Resolution that created the committee. Stated that our mandate is not to rubberstamp 2019-218, but is to review current code enforcement processes and codes, including concerns about due process and more.

Woblesky stated that she had expected a conversation with the Board during the presentation of the CCAC's Annual Report on the afternoon of April 18th. She reviewed many of the facts that have been found by the CCAC over the past 26 meetings. Stated that the assertion that 55% of public is cooperative and 45% uncooperative is not fully accurate. Gave statistics that show many alleged violators likely are unaware they have a violation or that it's ongoing. Reviewed the history of old alleged violation cases being literally dropped in boxes on Planning staff's desks, which is a process failure. Reviewed the Notice confusion and resulting failures to communicate and establish structure and procedures with resulting concern among county residents. Described the lack of a multi-department approach to remedying violations, resulting in confusion and missed communication opportunities. To move forward, we must recognize that it is a shared problem, and that is the way we can fix it, as a cooperative effort.

Menetrey stated that he listened to the April 18th presentation and thought Chair Woblesky did a good job. He recommends that the CCAC come back before the Board and make it a conversation.

Woblesky clarified that the subject areas the CCAC has been allowed to review are Building, Planning, Zoning, and Mining. She expressed concern and empathy regarding the problems reported at the 4/18 Board meeting with out-of-control dogs, drugs, and other terrible things, none of which are within the CCAC's purview. Emphasized that one of the recommendations from the CCAC is that the approach to all these problems needs to be shared and multi-departmental.

Menetrey responded that the Sheriff is working on the marijuana and Animal Control problems. He believes these issues are being handled. Reiterated that the CCAC should have another go at it before the Board. Reviewed the history of the selection process for the first CCAC members. Stated that he believes what the Board is hoping for is that the CCAC will review 2019-218 and fix it, make it acceptable. There was huge outcry from the community. It wasn't communicated the way it needed to be. The initial members were handpicked for this purpose, to make 2019-218 acceptable to the community. That's what he heard from the Board.

Woblesky observed that 2019-218 is a fines and abatement program. The question that has arisen is, the County already has fines and abatement on the books. It's confusing and disappointing to have the focus on fines and abatement when we already have them. This committee is charged with coming up with an innovative program.

Menetrey asked staff why was 2019-218 done? Explained that he does not micromanage. Why did it come to the Board if we already have a mechanism? What were we trying to fix?

Woblesky stated that is why we wanted to have a conversation with the Board. To make sure that the mission we accepted is in line with what the Board expected. Otherwise, we're like two ships passing in the night.

Rhodes stated that in view of the Board's tremendous breadth of responsibilities, it is good that the CCAC was created so that the committee can thoroughly review not only 2019-218 but also create truly innovative processes and procedures. The time required to review 2019-218 is possibly excessive. The CCAC members bring a wide range of viewpoints, experiences, and skills to the issues and have come up with innovative ways to solve the problems of code enforcement in the County. The existing codes include civil and criminal remedies, including a fine structure. The Board may want to add fines and administrative abatement, but what is more important is adding a cooperative component. Add ways to bring property owners into compliance in a compassionate way that includes amnesty, ARPA funding possibly as a force multiplier, and other mechanisms. The problems with 2019-218 are numerous, not merely as a matter of opinion, but more importantly according to state statutes and appellate caselaw.

Menetrey replied he is hearing that if you throw out 2019-218, you have a different path. If it takes two or three Board meetings – it needs to be the whole Board – to get the CCAC's ideas out, then let's get it scheduled. If we have remedies and ways to bring people into compliance, then let's use them. He appreciates what the CCAC is doing.

Edwards stated he now has read Mariposa County Code (MCC) from start to finish several times. The notion that 2019-218 is the remedy is misinformed. Learning about Vehicle Abatement has been a master class. Processes and procedures have changed over the years. Concepts of abatement and related tools are discussed in at least ten sections of the existing MCC. 2019-218 not only doesn't add much to the existing MCC, but it also has other failings, both state and federal. Has developed a new set of codes regarding Vehicle Abatement and will bring them before the CCAC.

Casto observed that there are problems with guns, dogs, swearing, marijuana and that some people are very scared. But 2019-218 is the last resort. Need to help people. We need to be given a chance to find solutions.

Woblesky summed up the approach as ideally involving “progressive discipline,” a concept familiar to those who have experience in human resources issues and their resolution. The need is to follow steps that don’t begin with the most severe. It is unnecessary to jump to those severe remedies from the beginning. Have to have a comprehensive approach. Other departments, including the Sheriff, should be a part of this conversation so that when a complaint is called in the person isn’t told it can’t be solved or that it’s someone else’s problem. We want compliance that leads to healthy and safe conditions.

Melton believes it is too early for the CCAC to go before the Board again. We need to design ways to get to the results the Board wants but to come up with ideas on our own without so much outside intervention. BWOPs aren’t usually a health or safety issue. You can’t talk about amnesty programs until you really understand what the alleged violations are. The CCAC needs to talk about all this and set priorities. Only after that should the CCAC try to get to a fix.

Engfer stated that Environmental Health uses the same process. Appreciates the discussion. Believes 2019-218 is a psychological reference, but that there are pieces in it that are needed. What are the areas and deficiencies that are problematic in our existing code structure? Why was 2019-218 written as it was?

Miranda stated that Environmental Health is within the CCAC’s purview. EH uses the same processes in the MCC. She believes there are pieces throughout the MCC that are very confusing. MCC 15.10.260 is only applicable to a few kinds of violations. We don’t have an administrative process. We only have judicial. We don’t have the staff to take the majority through the process. We got five new BWOPs today. Totally agrees with a creative solution, community involvement. We are looking at taking some of these that other route. We want to exhaust every other option first. Having it in Title 1 makes it available to others.

Clary observed that the CCAC has worked very hard on all these issues. The way development, codes, and process are dealt with needs to be revamped. Need a multi-departmental approach. Participation by the Sheriff including Animal Control, Environmental Health, Building, Zoning, and others all need to be sitting at the same table. On a monthly basis. The CCAC needs to be able to have a voice, to update the codes for the better of the community. When there’s a meth lab, the Sheriff is involved, and Environmental Health also needs to be involved. There are laws to solve these problems. The organization needs to come in as one to solve these problems. When she looks at the Code Violations List she often thinks “why is this even on the list?” Many of the items on the list are almost non-issues and could readily be resolved. Look at the ten worst and bring in the responsible parties to meet with the departments involved. They will likely resolve the problem after this type of process is followed. Her job when she worked in this area was to resolve problems. Just sending a letter won’t resolve anything. Has been saying these things all along. We need to do these things.

Engfer replied that he has talked with Clary about this before and has discussed these ideas with Miranda. Would like to implement this.

Miranda asked Clary, of the organizations you worked for, how many did not have a fining structure? There has to be a motive for people to come in. Give them 120 days.

Clary replied, no, do not give anyone 120 days to come in or call. There's no need to fine everybody. Some people are run out of business. Motivate them with the existing tools in the code. A person can talk to them about fines and costs, but don't need to start that way. Review the budget. Where is the money going? Threatening fines may only put people out. Negotiate and talk first. Her experience is that advising what could happen is much better than levying fines at the start. Many of the solutions to the violations are already going to cost the responsible party a lot of money. Talk first. Negotiate first.

Miranda said fining is going to be a huge burden for the department anyway.

Menetrey pointed out that only two currently sitting Supervisors were on the Board at the time that 2019-218 came through. The proposal had gone through lawyers, including County Counsel, so the Supervisors thought it was fine. The Supervisors picked the initial CCAC members because of their backgrounds. They created the CCAC to help create buy-in with the community on what the Board is trying to accomplish in getting people to obey the rules. If the County already has consequences on the books, let's talk about that. What he heard today the entire Board needs to hear. This is a valuable conversation, a good conversation, and he appreciates it. He also appreciates what the CCAC is trying to do.

Woblesky said that next steps will be to schedule a date for the CCAC to appear before the Board at a 2 p.m. afternoon session.

[Unintelligible comments not picked up by microphone.]

Rhodes pointed out that Chapter 1.40 (Exhibit 1 of 2019-218) is on the screen for consideration today. It is the proposed chapter that would have created an administrative fines program. One of the driving concepts behind 1.40 is that the fines could be collected as special assessments and liens that would eventually be foreclosed on if not paid. To the public, it created a fear factor. But fines can't be included in special assessments and liens, despite some people's advocacy of the idea. Legislation has passed that included fines in liens on code enforcement cases. That legislation has always been vetoed by the governors, who include language that these liens and foreclosures will contribute significantly to homelessness or violate due process. Public policy needs to be considered as well as the absence of statutory authority. What happens when code enforcement tries to enforce fines against property owners who not only don't have the money to remedy the alleged violations, but can't afford the fines either? Many alleged violators on the list say they don't have the money. If you utilize an amnesty or voluntary abatement process and assist property owners in making improvements, you create goodwill instead of alienation. Chapter 1.40 looked to the community like a brutal program that was going to take people's homes, but legally it can't as it's written. Those five governor's vetoes say you can't do it. All you can do with that stick is create bad debt and alienation.

Menetrey stated that he disagrees with Melton's conclusion that it's too early to go before the Board again. He observed that if each of the CCAC members makes a portion of the presentation to the Board, he thinks the communication could be very effective.

Melton replied that he looks at that as asking the Board for direction. He would rather present our ideas once we have something, some ideas to get this accomplished, to put in front of them. He does not think the CCAC should be asking the Board what to do.

Menetrey asked Melton what he meant by some of his points. He understood that the CCAC has asked for direction and clarification from the Board. He is now hearing that the CCAC thinks 2019-218 is junk and should be thrown out. He thinks the Board needs to hear what the CCAC is saying. He thought the Board created the CCAC to fix 2019-218 and to find a way to make the public love it. If that is never going to work, the Board needs to hear the ways the CCAC can make it happen.

Melton responded that we need to say that 2019-218 is garbage and say what we need to proceed with as an alternative.

Menetrey said the CCAC needs to go before the Board more often. One time before the Board after 26 meetings isn't often enough.

Edwards stated that the CCAC should do a complete review of 2019-218 as a workshop. We need to review it to see if there is anything worth keeping. There may be components that will assist other enforcement codes. There are a lot of opinions among our members that it is very problematic. We understood that our mandate was to learn County processes and procedures and to really understand the issues. The findings are there. We need to compile them into a report and provide it to the Board. We did the Annual Report to share our diligent efforts. We have put in hundreds of hours each. We want to provide solutions and have findings that can be shared. County residents with alleged violations can be categorized as good actors, indifferent actors, and bad actors. The vast majority of people in this county are good actors. Some are very bad actors. Many of their behaviors should be characterized as criminal. When people are threatening other people, brandishing guns, allowing dogs out of control, those are all criminal behaviors. They don't fall under civil codes. There is no way that a civil enforcement process can ever deal with those crimes. If a neighbor is growing marijuana, and cooking meth, and has seventeen RVs, and 46 abandoned cars, and dogs killing chickens, it's terrible.

Menetrey pointed out if those seventeen mobile homes are draining their black water into the neighbor's fish pond, it's a real problem that needs to be dealt with. Sending them a notice doesn't do any good.

Rhodes stated that current MCC 1.20.010 and 1.20.030 already provide for those code violations to be dealt with as misdemeanors and infractions. Those seventeen mobile homes draining black water could be at least seventeen misdemeanors. Those provisions are in the code now.

Miranda stated that had been tried last year, but that the District Attorney is understaffed.

Woblesky responded that if departments are understaffed she doesn't see how more codes will help.

Miranda answered that the new code wouldn't go through a judicial process. That she understands the concerns. As written, 2019-218 perhaps shouldn't be adopted. A well-written set of new civil citation codes could be adopted.

Woblesky said that having more codes to enforce doesn't appear to be the solution.

Edwards pointed out that Miranda had said that code enforcement staff is not currently sufficient to readily handle the new procedures of a fines program. Perhaps that could be remedied by utilizing fines and fees from 1.40 to pay for staff.

Miranda agreed as to the first point. As to the second point, she pointed out that San Bernardino, with 45 code enforcement officers, uses fines to fund the program and that kind of funding may create a conflict. It may create a catch-22. A lot of communities use fine funds as community development or abatement funds or other to avoid a conflict.

Casto asked which codes Sarah Williams is rewriting.

Engfer answered that Williams is working on the development code, Titles 16 and 17, subdivision and zoning. She is incorporating changes from state law as well as the General Plan, for example, ADUs. Also the development code update is intended to provide comprehensive code, easier to review and apply. This particular element of 2019-218 codes that were proposed, there is a process being laid out as to how to go through a code enforcement process. If there's a violation in whatever code, this is a process that would be followed. 2019-218 would have created a process that would apply to any violations of codes. Go through the proposal and identify what is good and what isn't. Identify the reasons the committee thinks things are bad or good. What's left are the pieces that are good. Where CCAC members think the state and federal violations are. A vehicle to share other views.

Casto observed that as we get to the area that Williams is working on, we may want to confer with her.

Chair Woblesky said we need to clarify our work plan. We've lost a little bit of the momentum over the past couple of meetings. The BWOP ad hoc needs to give a report about their findings and recommendations. She wondered about the utility of going through 2019-218.

Discussion ensued about whether to go through 2019-218 now or later. No consensus was reached.

[Unintelligible comments not picked up by microphone.]

Discussion about the lack of adequate numbers of microphones. Engfer stated that a new system will be installed in June.

Edwards agrees that we need to review current Mariposa County Code to be clear about what can be done now. There are already remedies in the code. We need to review vehicle abatement and building abatement code processes. Then we can do 2019-218.

Edwards said he has gone through the subject of vehicle abatement and would like to go through it with everyone at the next meeting.

Menetrey made clear that he values all members of the CCAC. He then stated that an afternoon roundtable workshop discussion between the Board and the CCAC might be more comfortable and relaxed. He recommends that we mention his idea to the Clerk of the Board.

Rhodes moved that the CCAC dedicate at least one hour at each meeting until we have gone through Exhibits 1 and 2 of 2019-218. Woblesky made a friendly amendment that we do all of 2019-218 at the next meeting. The motion died for lack of a second.

[Unintelligible comments not picked up by microphone.]

Discussion ensued about the agenda for the next meeting.

Menetrey said he appreciates the candid, straightforward approach of the CCAC, that we need an environment that allows this kind of communication.

Miranda gave an update on the Muir Lodge abatement activity. Stated that code enforcement will be taking some different actions on some of the worst health and safety cases.

7. Discussion/Possible Action re: Future CCAC Agenda Items. Next CCAC Meeting is scheduled for May 17, 2023. (Meeting #28)

Topics may include: Action Items: - ARPA funds and Abatement Program Development.

- List of Mariposa Codes, Ordinances, Regulations, and Practices related to CCAC Member Assignments (see below) Identified for CCAC Review and Update.

- Other... Updates on CCAC Member Assignments:

- County of Sonoma Zoning and Building Changes - Colleen Rhodes

- Communication/Awareness/Education Policy Development - Karen Woblesky - Public Nuisance Abatement - Kris Casto

- Landfill Community Activities/Events - Colleen

- Mitigation of Housing Violations - Colleen

This item was postponed until next meeting.

8. Persons wishing to speak on a matter not on the agenda, but within the jurisdiction of the committee.

No public comment was offered.

9. Adjourned at 4:00 p.m.

Motion by Rhodes to adjourn.

Second by Melton

Motion passed. 8 ayes, unanimous.

Minutes submitted by,

Colleen Rhodes
CCAC Secretary