



Mariposa County

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Mariposa County MINUTES of the Code Compliance Advisory Committee



ROB FOX
GABRIEL EDWARDS
FLOYD DAVIS
CL RHODES
KRIS CASTO
KEN MELTON

CHAIR
VICE-CHAIR
MEMBER
MEMBER
MEMBER
MEMBER

FINAL MINUTES OF THE CODE COMPLIANCE ADVISORY COMMITTEE SPECIAL MEETING

January 10, 2025

(Approved as Amended 02/14/25)

Time: 9:00 A.M.

Location: Government Center Upper Floor
Board of Supervisors Chambers
5100 Bullion Street, Mariposa

A. Call to Order and Roll Call

Chair Rob Fox called the CCAC Special Meeting to order at 10:15 AM.

Members Present: Robert Fox, Ken Melton, Gabe Edwards, Colleen Rhodes, Floyd Davis, and Kris Casto.

B. Recess into the Joint Meeting

Fox called the Code Compliance Advisory Committee to recess to join the Joint Study Session with the Planning Commission at 10:15 AM.

C. Joint Study Session with the Planning Commission

1. Mariposa County Development Code Update – Draft Zoning Enforcement Article 17.144 and related code provisions, joint Discussion and Possible Action for Recommendation – Planning Commission and Code Compliance Advisory Committee

Fox opened the item and noted that their goal today was to provide the commission with their recommendations related to the Enforcement Article 17.144. Then introduced CCAC members, Colleen Rhodes and Gabe Edwards to present the CCAC's recommendations.

In compliance with the American Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk of the Board's Office.

Rhodes shared that the committee came to an agreement at the December 20, 2024 meeting to provide the commission with an Administrative Abatement Program with a free Appeal Hearing.

Before providing details of the Administrative Abatement Program, Rhodes noted that the CCAC had previously looked at a wide range of solutions to Enforcement issues and that there were remedies that are in code but not being utilized. She shared that the CCAC requested the open code cases from Code Compliance Technician, Bart Conner, and briefly explained the type of cases in Title 15 and Title 17 that were open in the county.

Rhodes then briefly provided background information regarding the Administrative Abatement that included funding from the American Rescue Plan Act (ARPA); however, due to the CCAC's inability to complete the Abatement Program in the allocated time frame funding was disbursed elsewhere.

Rhodes noted that funding needed to be available; however, some administrative abatement cases can be done inexpensively, and used a case from Lake Don Pedro as an example.

Rhodes noted that the county should not recoup for administrative or legal cost but only the cost of the abatement from the property owner. She explained that the county would provide funding to the property owner to remedy the problem, particularly if the property owner is low income and the county would eventually be paid back through other mechanism, i.e.

1. The county could place a special assessment against the property and payments could be collected slowly over time in the same manner as other property taxes.
2. The county could place a lien on the property that could be paid back on a payment plan by the property owner, or when the property transferred title.

Rhodes highlighted that those in violation under Title 17 would be remedied by the abatement itself.

Rhodes stressed the importance of the administrative hearing process and that section 25845 references government code 27720 through 27728. The Board of Supervisors would need to adopt section 25845. She then spoke about the free hearing process for appeals and how that differs from the current code. She explained that the current code required notifying the community to contest whether or not the county should be allowed to abate a nuisance on their property, and expressed that the need to involve the community was unnecessary. The free hearing process does not require a large panel but a hearing officer. In addition, the CCAC recommended that the hearing be done utilizing evidentiary rules that are consistent with the evidentiary rules that are used in court cases; where facts and evidence are recent, and has been confirmed by the Code Compliance Officer. Also, the hearing officer can have the opportunity to make a decision based on reliable evidence.

Furthermore, the CCAC believed that this approach would create fewer problems within the community, less distrust of the process from the community, and an inexpensive process to remedy violations.

The CCAC then asked the Commission if they had any questions and inputs regarding the Administrative Abatement Program.

Commissioner Herman asked if this conflicted with the due process of the Constitution?

Rhodes responded that this followed the due process, and explained the overall process in detail. She noted that the CCAC would like to see the Request for Inspection Letter be eliminated from being the first initial form of contact, as this letter is perceived to create hostility. Instead be replaced with a letter that is non-confrontational listing the specific alleged violation, asking for permission to visit the property, provide information regarding the Amnesty Program and the Appeals Process.

Commissioner McCamman asked if the appeal hearing officer would be appointed by the Board of Supervisors?

Rhodes advised that in government code 27720 through 27728 listed a number of options. A discussion occurred with Rhodes noting that the Code Enforcement Officer would be presenting evidence almost like a prosecutor, and that a lawyer would not be needed for the property owner or for the county, and that County Council cannot be a hearing officer, and suggested that Council review government code 27720 through 27728 for the appellate courts determination set for the County.

Edwards, read government code 27724 that specially states that any county hearing officer shall be an attorney at law, having been admitted to practice for at least five years prior to the appointment.

Edwards noted that this can become a policy within the Title 17, with a reference to another Title that is specifically written out as enforcement with one hearing officer. Then brought to the Planning Commission or taken to Environmental Health because they have their own escalation for hearings if the abatement case failed the hearing officer.

Commissioner Bagget noted that the hearing officer could be a reasonable person from the community with legal background. Perhaps a retired attorney, or rotating community service of retired attorneys.

Significant conversation ensued regarding tools that the county could use to approve building code violation that are within "substantial conformance". Commissioners wanted flexibility from a building official on minor building code violations of errors.

During discussion, Rhodes noted that the CCAC does not have language for the Administrative Abatement Program with a free Appeals Hearing but directed staff to provide language that the CCAC will enhance further.

Edwards noted that the CCAC's intent was to present a tiered enforcement concept based on common sense, logic and legal precedent. He then proposed some recommendations. A process for addressing complaints and a process for tiered code violation enforcement.

The complaint process recommendations offered are that any process follow guidelines for court-admissible processes and Procedures. That the letters sent be non-confrontational certified letters. That if Built With Out Permit (BWOP) code violations can be found within substantial conformance then the requirement for an Engineer or Architect of professional record to approve the building be removed. Remove \$145.00 over-the-counter permit fee. Re-engineer website with both Complaint options (Fire, EHS, Building, Zoning, Junk, etc.). and Abatement/Remedy tools/options (fence, cleanup, AVA, Chamber of Commerce, etc.).

Edwards then presented his recommendation for tiered enforcement that consisted of:
Step 1:

- Letter of Specific Complaint (not general, not adversarial)
- Request for Voluntary Abatement
- Notification of Amnesty Program and Options

Step 2:

- Notification of Right to Appeals (CA Government Code 27720 – 27728)
- Appeals Hearing Scheduling within 90 days

Step 3:

- Notice to Abate
- Abatement Process Documentation
- Voluntary Abatement with Amnesty Program
- Administrative Abatement (CA GC 25845 & CHP AVA)
- Summary Abatement (CA GC25845 & 2770-27728)
- Judicial Abatement (CA GC 25845 & CCP 731-736)

Consensus was found between the CCAC and Planning Commission.

The conversation was summarized into three categories, Complaint Intake, Complaint Process, and Other Recommendations to the Board of Supervisors that was read back to the CCAC and the Planning Commission by Senior Planner, Ben Goger for action:

Complaint Intake:

1. When a complaint is received should be delegated to the appropriate agency
2. Have a hierarchy of health, life and safety priorities assigned to the complaint
3. The process should be non-burdensome to delegate the complaint to the appropriate department.

Complaint Process:

1. Initial letter of contact that's non-confrontational without judicial code references
2. Amnesty would be offered for the individuals with a list of options and resources
3. Notice to Abate
4. Administrative Abatement processed under government code 25845
5. An Appeals hearing would then be available pursuant to government code 27720 through 27728

Other Recommendations to put forward to the Board of Supervisors:

1. Complaints should be citizen driven
2. Remove or rescind the current code that states “that if there’s a compliance case against the property, the property owner cannot be issued a permit” will be struck.
3. A recommendation to Agency Officials to assist citizens in bringing violations with health, life, safety issues that are within substantial conformance.
4. Allocate budget for professional services contract to develop the Administrative Abatement Program with a free Appeals Hearing process
5. Develop a separate Code and procedures manual that will cover the program expectations that are consistent with the revised code
6. Review and amend the definition of the term “Nuisances” throughout the Development Code Update for consistency and clarity
7. Modify the County Website to provide all available resources for complaints received

Finally, there was some discussion regarding fire enforcement that was to be brought back for further discussion at the next Planning Commission meeting: Explore the fire enforcement process (Mariposa County Fire Advisory, CAL Fire: Burn Boss, log decks).

Reconvene as the Code Compliance Advisory Committee

The Code Compliance Advisory Committee reconvened at 11:40 AM.

D. Adjournment

There being for further business the Code Compliance Advisory Committee adjourned the meeting at 11:40 AM.