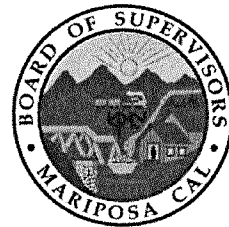


# MARIPOSA COUNTY

Board of Supervisors • (209) 966-3222



## **RESOLUTION - ACTION REQUESTED 2014-611**

MEETING: November 25, 2014

TO: The Board of Supervisors

FROM: Janet Bibby, District III Supervisor

**MINUTE ORDER ATTACHED**

RE: Uniform Procedures for Complaints/Requests for Investigations

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### **RECOMMENDATION AND JUSTIFICATION:**

Adopt a Resolution Amending Uniform Procedures for the Submission and Consideration of Complaints/Requests for Investigations. This Resolution pertains to investigating a possible violation of a County law or other health and safety related problems. Currently only complaints filed by private citizens are considered confidential unless the complaint is found to be frivolous by the Board of Supervisors. This has resulted in county staff being reluctant to file complaints or initiate investigations because of repercussions from neighbors, friends, and possibly even co-workers. In fact, in the last year this instance has occurred with a county staff member receiving unfavorable treatment from the community for turning in a violation.

During the course of business or while traveling through the County, county employees may become aware of possible violations. Amending the Resolution will allow county staff to feel comfortable initiating an investigation or filing a complaint. It also being recommended that language regarding making the complaint public if filed by a competing business be removed too. This will keep the County and staff out of any possible conflicts occurring in the local business community.

Local citizens and businesses will still have protection from frivolous complaints as these will be made public if the Board of Supervisors determines that the complaint is frivolous or not made in good faith; or as determined by a court of law.

All affected departments -- Planning, Building, Environmental Health, and Public Works have been contacted regarding this matter, and all are in agreement with amending the Resolution.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

On December 10, 2002, the Board adopted Resolution 02-436 amending uniform procedures for the submission and consideration of complaints/requests for investigation.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Do not amend the uniform procedures for submission and consideration of complaints/requests for investigations. Only complaints or investigation initiated by private citizens will remain confidential, which may cause county employees to be reluctant in filing complaints or initiating investigations.

**FINANCIAL IMPACT:**

**None.**

**ATTACHMENTS:**

**Uniform Complaint Procedures 2014 (DOC)**

**Request for Investigation 2014 (PDF)**

**Resolution 02-436 (PDF)**

**CAO RECOMMENDATION**

Requested Action Recommended

*Mary Hoelson*

Mary Hoelson, Interim CAO 11/19/2014

**RESULT: ADOPTED AS AMENDED [UNANIMOUS]**

**MOVER:** Janet Bibby, District III Supervisor

**SECONDER:** Merlin Jones, District II Supervisor

**AYES:** Stetson, Jones, Bibby, Cann, Carrier

**MARIPOSA COUNTY RESOLUTION NO. 14-611**

**A RESOLUTION AMENDING UNIFORM PROCEDURES FOR THE SUBMISSION AND CONSIDERATION OF COMPLAINTS/REQUESTS FOR INVESTIGATION**

**WHEREAS**, the Board of Supervisors desires to amend the uniform procedures for the submission and consideration of complaints/requests for investigation received by the Mariposa County Planning, Building, Health, and Public Works Departments; and

**WHEREAS**, the Board of Supervisors has considered input from all affected departments in the preparation of complaint procedures.

**NOW THEREFORE BE IT RESOLVED** that the Mariposa County Board of Supervisors amends the following procedures for the submission and consideration of complaints/requests for investigation regarding building code, zoning code, public health, wells, septic systems, unsafe housing, encroachment, County roads and other similar issues.

1. All affected departments will use the Uniform County Request for Investigation Form attached hereto as Exhibit A.

2. Affected County Departments shall require the submission of the written form for complaints. This form must be completed by a citizen or a governmental official requesting an investigation. Staff will complete the form on behalf of members of the Board of Supervisors when requested to do so by a Board member. This requirement does not limit or reduce the department's responsibility to address violations that they became directly aware of based upon observation by staff or other similar means. Oral complaints may be accepted in such cases where the department determines that an immediate threat to the public health and safety exists. Such circumstances would include unsafe food, failing septic system, hazardous material spill, building in danger of collapse, etc. in which case an inspection will be conducted based upon verbal complaints.

The name of the complainant shall be kept confidential by the department receiving the complaint. Release of the name of the complainant shall only occur if required by a court of law or upon order of the Board of Supervisors after determining that the complaint was frivolous and not filed in good faith.

3. Each department shall adopt written policies regarding the handling of complaints and violations. These policies shall be consistent with the Board direction contained herein. The policies shall be made available to any interested party upon request.

**PASSED AND ADOPTED** this 25<sup>th</sup> day of November, 2014 by the Mariposa County Board of Supervisors by the following vote:

- AYES:
- NOES:
- ABSTAINED:
- EXCUSED:

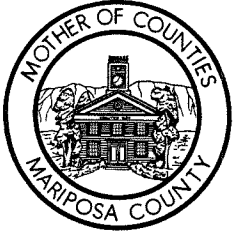
  
\_\_\_\_\_  
**KEVIN CANN**, Chairman  
Mariposa County Board of Supervisors

**ATTEST:**

  
\_\_\_\_\_  
**RENE LAROCHE**  
Clerk of the Board

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**STEVEN W. DAHLEM**  
County Counsel



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 965-3222



KEVIN CANN, CHAIR  
MERLIN JONES, VICE-CHAIR  
LEE STETSON  
JANET BIBBY  
JOHN CARRIER

DISTRICT IV  
DISTRICT II  
DISTRICT I  
DISTRICT III  
DISTRICT V

## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

TO: SUPERVISOR BIBBY  
FROM: RENE' LaROCHE, Clerk of the Board *RL*  
SUBJECT: **Adopt a Resolution Amending Uniform Procedures for the Submission and Consideration of Complaints/Requests for Investigations**

Resolution: 14-611

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on November 25, 2014

#### ACTION AND VOTE:

#### **5. Board of Supervisors RES-2014-611**

#### **Adopt a Resolution Amending Uniform Procedures for the Submission and Consideration of Complaints/Requests for Investigations**

Supervisor Bibby gave the staff report noting that if a private citizen brings a complaint their name is kept confidential, but if an employee does their names become public; noted that this came out of a request from one of the departments; remarked that all this is attempting to accomplish is to make the County of Mariposa the complaining party instead; and stated that she also thinks it will promote code enforcement.

Supervisor Carrier noted his agreement, remarking that it should go further so that citizens don't have to sign their name. Supervisor Jones concurred with Supervisors Bibby and Carrier. Supervisor Stetson noted that he would support editing the process to make it work.

Supervisor Cann required clarification regarding frivolous complaints, noting that it would seem that guidelines need to be established. Supervisor Bibby suggested that oral complaints could be accepted and investigated as time permitted. Supervisor Cann inquired as to the process for anonymous complaints. Supervisor Bibby proposed that those be handled as time permits, with the assumption being that the departments will expedite investigations for those where someone puts down their name. Supervisor Bibby remarked that it is either a violation or it is not, and that no action will occur if it is a false complaint.

Supervisor Carrier urged taking anonymous complaints, noting that if there is enough actionable information then we have a duty to act. Supervisor Jones concurred noting that, even if a person does not want to sign their name, they should be required to give enough information for the compliance officer to determine whether it is a legitimate complaint.

Supervisor Bibby noted that the form outlines that, but that they just wouldn't have to sign it; and remarked that law enforcement still goes out even if someone doesn't give their name. Supervisor

Cann inquired if the proposal is to accept the form with no reporting name. Supervisor Bibby responded that they can put down the nature of the violation and the property address so that the County can do its due diligence.

Supervisor Stetson noted experiences with someone who continually complains, and inquired if they would be investigating every complaint that comes in from that same person.

Sarah Williams suggested keeping the policy worded the way it is for oral complaints so that the complaint is only considered in cases where the department determines that there is an immediate threat to the public health and safety; but that for all other complaints, either signed or unsigned, we still require the complainant to fill out the form or provide some sort of correspondence which will provide staff with enough information on what the concern is and the location. Ms. Williams also noted that they treat all complaints the same, regardless of whether it is from an individual who submits numerous ones; and oftentimes they determine that there is not a violation with those complainants.

Supervisor Cann required clarification that what is being suggested is to try, as much as possible, to have them fill out the form; and inquired if Ms. Williams is comfortable with leaving out the contact person. Ms. Williams responded that the person will not be able to know what the outcome of the investigation is unless they leave their contact information. Supervisor Cann suggested reminding people of that when they come in to fill out the form; remarked that all of the departments are really good at documenting investigations; and noted that he likes the recommendation to give the person the option.

Supervisor Jones inquired if the Compliance Officer will be overwhelmed if this policy is implemented. Ms. Williams responded that he has more work now, but that she has often heard the criticism that the County doesn't enforce its own rules. Supervisor Jones inquired if many people decide against filing a complaint because they have to sign their name. Ms. Williams responded that they do have people who are uncomfortable with the form, and that she could follow up with a report in 6 to 12 months to let the Board know if there any been any significant changes.

Supervisor Bibby noted that, hopefully, there will be a significant increase in building and planning fees; and that departments will not feel that one department is enforcing rules while others are not.

#### **Public comment opened**

Marshall Long/Supervisor-elect District III noted that for those who complain he refers them to the first proposed seal of the United States which read "Mind your Business" on one side; inquired why we are allowing people to intimidate whistle blowers; noted that it can be very detrimental to the county's health and safety if you have a situation where people can be intimidated and kept from bringing forward complaints; and remarked that if you call in to Animal Control, or to the Sheriff's Office, no one asks for your name.

#### **Public comment closed**

Supervisor Bibby moved the item, amended in accordance with Ms. Williams suggestions to provide that the reporting party must fill out the form, but that the determination of leaving their name or phone number be left up to the reporting party; that we will not be releasing the name of the employee or the competing business; and that the signature line will say that it is optional.

Chair Cann remarked that the Board did note that things that are determined to be frivolous will be treated appropriately. Supervisor Cann noted that Ms. Williams, as the supervisor, will need to help the employee with the triage. Ms. Williams also reminded that there is also still the ability to appeal.

**RESULT: ADOPTED AS AMENDED [UNANIMOUS]**

**MOVER:** Janet Bibby, District III Supervisor

**SECONDER:** Merlin Jones, District II Supervisor

**AYES:** Stetson, Jones, Bibby, Cann, Carrier

**MARIPOSA COUNTY  
REQUEST FOR INVESTIGATION**

This form is to be utilized when a citizen or governmental official is requesting that a County Department investigate a possible violation of a County law or other health and safety related problem.

This form is confidential in accordance with County policy. However, the form must be released if required by a court of law.

**Complainant Information**

(Providing your name and contact information is optional)

\_\_\_\_\_  
Complainant Name (person completing this form)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Town/Area

\_\_\_\_\_  
Zip Code

Email Address: \_\_\_\_\_

Do you wish to be contacted with the results of this investigation?

Yes

No

I certify that the information provided on this form is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature (Optional)

\_\_\_\_\_  
Today's Date

**Description of Violation / Problem**

\_\_\_\_\_  
Street Address of Violation / Problem    Town / Area

\_\_\_\_\_  
Assessor's Parcel Number (APN)

\_\_\_\_\_  
Property Owner Name(s) – If known

\_\_\_\_\_  
Property Owner Mailing Address

\_\_\_\_\_  
Town

\_\_\_\_\_  
Zip Code

Nature of violation or problem (please be as specific as possible):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Request for Investigation - Page 2.

Driving directions to violation site from State Highway or Major County Road \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FOR STAFF USE ONLY**

Staff Person Assigned \_\_\_\_\_ Date of Inspection \_\_\_\_\_

Investigation Findings:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Action Taken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiliated Files: \_\_\_\_\_

Case Closed As:     Unsubstantiated     Abated     Referred to Appropriate Department

**Follow-Up:**

Other Affected Departments Notified:    (circle)

Planning   Building   Health   Public Works   Sheriff   Child Protective Services   \_\_\_\_\_  
Other

Letters sent to property owner \_\_\_\_\_  
Date                      Date                      Date

Complainant notified of action \_\_\_\_\_  
Date                      Date                      Date

(Indicate if by phone or letter)

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_