

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MARIPOSA COUNTY RESOLUTION NO. 85-222

RESOLVED by the Mariposa County Board of Supervisors, a political subdivision of the State of California, that the Appeals Procedure for the County, as amended, are hereby adopted and attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED that Mariposa County Resolution No. 84-230 and the Appeals Procedure adopted therein are hereby superseded and rescinded.

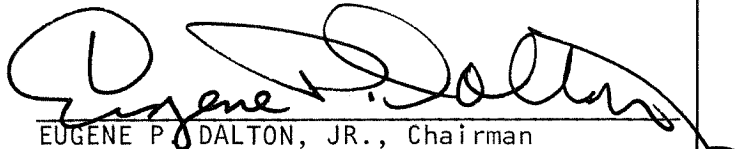
PASSED AND ADOPTED by the Board of Supervisors of Mariposa County, this 9th day of July, 1985, by the following vote:

AYES: BARRICK, DALTON, ERICKSON, RADANOVICH, TABER

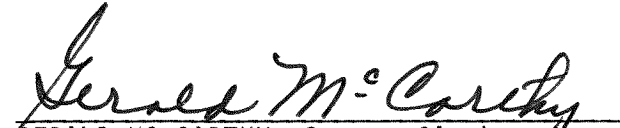
NOES: NONE

ABSENT: NONE

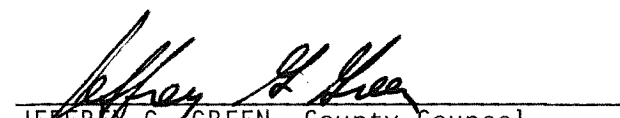
ABSTAINED: NONE


EUGENE P. DALTON, JR., Chairman
Mariposa County Board of Supervisors

ATTEST:


GERALD MC CARTHY, County Clerk and
Ex Officio Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


JEFFREY G. GREEN, County Counsel

APPEALS PROCEDURE

APPLICABILITY OF APPEALS PROCEDURE: These Procedures shall apply to all findings or decisions of any County Official wherein an appeal therefrom is a matter of right, and there are no other appeal procedures which have been adopted relating thereto.

I. FILING OF APPEALS

A person or person dissatisfied with the findings or decision of any County Official, Commission, Hearing Officer, etc., wherein an Appeal therefrom is a matter of right, may Appeal to the Board of Supervisors (BOARD) by filing a Notice of Appeal (NOTICE) with the County Clerk within ten (10) days of the date notice of the findings so made or the decision is mailed to Appellant, and when applicable, pay the appropriate filing fee. Notice of the findings or decision shall be mailed to the last known address of the Appellant, return receipt requested.

II. STATEMENT OF GROUNDS FOR APPEAL

Persons appealing hereunder shall submit with their Appeal a written statement of each and every error, finding, or objection, upon which the Appeal is based. Appellants may file an amendment or supplement to their written statement of grounds of appeal anytime within seven (7) calendar days from the date of filing the NOTICE. The evidence considered at the hearing on the Appeal shall be limited to the issues clearly identified in said written statement with amendments or supplements, filed by Appellant unless the BOARD at its discretion, opens the hearing to other issues. Copies of the Appeal and statement of grounds for appeal shall be made available to the public and all interested parties, along with copies of these rules, upon request.

III. HEARING DATE

At the next available regular meeting of the BOARD, a date for the actual Appeal hearing shall be selected and set, at a date certain, generally no less than twenty-one (21) days from the date of setting nor more than forty-five (45) days from the date of filing of the NOTICE OF APPEAL, unless extended by the BOARD with the consent of Appellant. In no event shall a hearing be set for a time later than sixty (60) days from the date the NOTICE OF APPEAL is filed.

IV. STAFF REPORTS

Written staff reports shall be submitted for inclusion in the BOARD agenda at least five (5) working days prior to the scheduled hearing, and shall be available at the Clerk's Office to all interested parties. The BOARD may accept additional staff reports along with documentary evidence received at the hearing, provided copies are available to interested parties.

V. LETTERS AND STATEMENTS

The BOARD may receive written statements and letters concerning the Appeal at any time prior to commencement of deliberation by the BOARD, after which no such written evidence will be received into the record. The issues considered shall nevertheless be limited as set forth in these Rules. Parties shall submit ten (10) copies of all written materials to be considered.

VI. RULES

RULE ONE: COPIES OF RULES: Copies of this Resolution and any amendments hereto shall be made available to the general public and any interested principal parties prior to and during any Appeal hearing.

RULE TWO: IDENTIFICATION OF WITNESSES: All persons wishing to speak at the hearing must approach the microphone and state their name and address.

RULE THREE: QUESTIONS: Any BOARD member may direct questions through the Chairman to Staff and witnesses at any time during the hearing or deliberations. During the deliberation portion of the meeting, answers shall be limited to the specific question only.

RULE FOUR: CROSS-EXAMINATION: The opportunity to ask questions of persons testifying at the hearing shall be at the discretion of the Chairman, but if allowed, shall be provided to principal spokesmen on both sides of the question. Questions for this purpose shall be directed to the Chairman, identifying the witness from whom an answer is sought. Persons present who have not previously testified shall not be questioned except by the BOARD.

RULE FIVE: CONTINUANCE OF HEARING: All or any portion of the hearing may be continued to a time, date and place certain without further formal notice, provided the continuance is announced to all persons present at the hearing, and posted conspicuously at the time, date and place of the hearing.

RULE SIX: **ELIGIBILITY TO VOTE:** BOARD members not present during the entire testimony portion of the hearing shall not be eligible to vote on the decision. In the event that less than three BOARD members eligible to vote are present during the testimony portion of the hearing, the Chairman shall continue the hearing until such time as at least three eligible Supervisors are present to hear testimony.

RULE SEVEN: **VARIANCE FROM RULES:** These rules and procedures may be varied by the Chairman for good cause, or by a majority vote of the BOARD.

RULE EIGHT: **RECORD:** A record, by tape or otherwise, shall be made of each hearing on Appeals of this type. Persons desiring copies of the record may purchase tape copies from the Board Clerk upon reasonable notice, or may arrange for a Certified Court Reporter to be present at their own expense.

RULE NINE: **DECISION:** A decision shall be rendered by the Board in the form of a resolution within thirty-five (35) days of the closing of the public hearing unless an extension of time is requested by the initiator of the action and approved by the BOARD.

RULE TEN: **FINDINGS OF FACT:** Findings of Fact shall be prepared in all cases where the appealed decision is reversed, and in other cases when a request is received prior to the close of the hearing by a legally interested party. Findings will be prepared at the direction of the BOARD for adoption within two (2) weeks of BOARD action.

RULE ELEVEN: **JUDICIAL REVIEW:** The time within which judicial review of any final decision of the Board of Supervisors must be sought is ninety (90) days from the date of such final decision pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 66499.37, or such other time as required by State Statute in the event of amendment or repeal of the above-cited Statutes.

VII. CONDUCT OF HEARING

NUMBER ONE: **OPENING OF MEETING:** Chairman opens meeting and states purpose and procedures. All questions and/or presentations directed to BOARD through Chair. Any BOARD member may direct questions to Staff and witnesses at any time during the hearing or deliberation process.

NUMBER TWO: **STAFF PRESENTATION:**

- A. Presents Staff report.
 - 1. Oral.
 - 2. Documentary evidence copies for BOARD if not previously provided.
 (Copies to Appellant)
- B. Questions by Board of Supervisors to Staff.

- NUMBER THREE: APPELLANTS PRESENTATION:
- A. Appellant makes its presentation and presents evidence.
 - 1. Questions by Board of Supervisors.
 - 2. Questions from general public.
 - B. Other speakers in support of issue.
 - 1. Questions by Board of Supervisors.
 - 2. Questions from general public.

- NUMBER FOUR: OPPONENTS PRESENTATION:
- A. Opponents make their presentation and present evidence against issue.
 - 1. Questions by Board of Supervisors.
 - 2. Questions from general public, including Appellant.

- NUMBER FIVE: GENERAL COMMENTS:
- A. Chair calls for comments or questions from general public.

- NUMBER SIX: REBUTTAL BY APPELLANT:
- A. Appellant responds to issues raised by opponents. No new issues are to be raised by Appellant.
 - 1. Questions by Board of Supervisors.
 - 2. Questions from general public.

- NUMBER SEVEN: ANY CLARIFICATION NEEDED BY BOARD OF SUPERVISORS:
- A. Board members question either Staff, Appellant or opponents to clarify any areas of concern, etc.
 - B. If new evidence is submitted, BOARD will give all parties an opportunity to respond.

- NUMBER EIGHT: STAFF PROCEDURAL QUESTIONS:
- A. Possible procedural issues raised by Staff to presentations.
 - 1. Has evidence been submitted which requires additional Staff research or information, or additional comment or testimony from Appellant and/or Opponents.
 - 2. If no additional research or information required, Staff reports as to mandatory findings required, procedures, etc.

- NUMBER NINE: CLOSE EVIDENTIARY PORTION OF HEARING:
- A. Deliberation - no further input from general public. Staff may provide information re-

garding mandated procedures only.

1. If Board has additional question, which call for evidentiary testimony or documents, testimony portion of meeting shall be reopened.
 2. If evidence taken, Appellant and general public allowed to address new evidence.
 3. Close evidentiary portion of hearing.
- B. Continued deliberation.
- C. If decision cannot be reached, hearing continued to date and time certain for further deliberation and decision.
- D. Decision.
1. Resolution proposed by Board.
 - a. Motion should contain facts and evidence which was adduced at the hearing to support action, or should direct Staff to prepare draft resolution for review and action by BOARD at a continued meeting of BOARD, which shall be at a date and time certain.
 - b. A decision shall be rendered by the BOARD in the form of a resolution within thirty-five (35) days of the closing of the public hearing unless an extension of time is requested by the initiator of the action and approved by the BOARD.