

DEPARTMENT: Administration

BY: Rick Benson

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Discussion and clarification of the County's position regarding enforcement of State Fire Marshal requirements within the territory serviced by the Mariposa Public Utility District (MPUD).

Please see the attached memorandum for additional information.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Memorandum
Source:		MPUD Letter
Internal Transfer		
Unanticipated Revenue	_____ 4/5's vote	
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
() General () Other		

CLERK'S USE ONLY:

Res. No.: 11-264 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 () Approved
 Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments:

CAO: RB



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JIM ALLEN, CHAIR
JANET BIBBY, VICE-CHAIR
LEE STETSON
LYLE TURPIN
KEVIN CANN

DISTRICT V
DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: RICHARD J. BENSON, CAO

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: Discussion and Clarification of the County's Position Regarding Enforcement of State Fire Marshal Requirements within the Territory Serviced by the Mariposa Public Utility District (MPUD)

RES. 11-264

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on June 7, 2011

ACTION AND VOTE:

7 **Administration**
Discussion and Clarification of the County's Position Regarding Enforcement of State Fire Marshal Requirements within the Territory Serviced by the Mariposa Public Utility District (MPUD)

BOARD ACTION: Rick Benson advised of correspondence received from MPUD and of review of the regulations by County staff, including an Attorney General's Opinion relative to responsibility for enforcement of the State Fire Marshal requirements within MPUD for the new fire sprinkler requirements for residential construction; and of his recommendation. Steve Dahlem, County Counsel, advised that he contacted MPUD relative to this item being moved up on the agenda, and he advised that the opinion from the Attorney General was based on a request from MPUD. He feels that this is a matter of MPUD accepting the responsibility and requesting assistance from the County. Discussion was held relative to the jurisdictional issue.

Input from the public was provided by the following:

Pramod "Paul" Patel, Best Western Yosemite Way Station, commented on his contacts with MPUD relative to the inspections; and he expressed concern with the high cost and time delays he experiences for the inspections for the Hotel. He asked if this service could be done locally, and he commented on the requirements, including signage, asked whether the Government Center is in compliance with all of the requirements. He has previous construction experience in large counties and questions the situation here.

Cruz Solorio provided input relative to the delays and costs he experienced with the Red Fox Restaurant with the State Fire Marshal services coming from Fresno; and he asked that we have a local inspector.

Mike Simpson stated they have a big project on the table and he expressed concern with the plan approval process and costs; and he requested that the County handle the inspections.

Dave Lawson, local building contractor, referred to his experience with the Pioneer Market remodel – phase I inspections were handled by CalFire through the local office and they were very efficient; and he complimented the County for improvements with the Building Department. But, he is hearing today that we need to have local control again; and he stated he is willing to help with this.

Eleanor Keuning thanked the Road crews for grading Leonard Road. She asked whether RCRC is addressing the Fire Marshal issues.

Kevin Barry stated he is working with Linda Halvorson on the Gold Coin, and he expressed concern with the State Fire Marshal services and the delays they are experiencing; and he asked for local control and understanding.

Mark Harris asked what liability the County would have if it took over the Fire Marshal services as it does not have liability for other inspections.

Dieter Dubberke referred to his earlier comments and the information he presented relative to the costs and processing; and he stated he hopes that the County can reach an agreement with MPUD to bring the inspection process back to the local level.

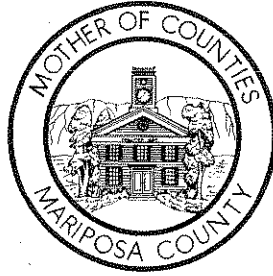
Further discussion was held. Mark Rowney, MPUD General Manager, asked for clarification of whether this discussion is concerning their letter to the Building Director relative to the residential fire sprinkler requirements as the commercial structure issue is a separate matter. Following discussion, Mark Rowney advised that they are willing to work with the County on these issues.

(M)Bibby, (S)Cann, Res. 11-264 was adopted approving the recommendation in the June 7, 2011, memorandum from the County Administrative Officer that responsibility for enforcing fire codes, including fire sprinkler requirements, within the boundaries of MPUD will not be accepted by the County at this time based on the Attorney General's Opinion; and directing that there be a continued dialogue with MPUD to resolve these issues. Supervisor Cann commented on RCRC's work on these issues. Mark Rowney responded to a question from the Board and acknowledged that MPUD has the jurisdiction for the commercial based on their discussions with the State. Discussion was held. Chair Allen asked the County Administrative Officer to come back in two weeks with an update on the status of resolving these issues. Ayes: Unanimous.

Cc: Mike Kinslow, Building Director
Jim Wilson, Fire Chief
Mark Rowney, MPUD
File


MARIPOSA COUNTY

Richard J. Benson
County Administrative Officer



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rbenson@mariposacounty.org

June 7, 2011

TO: Board of Supervisors
FROM:  Rick Benson, County Administrative Officer
SUBJECT: Enforcement of Fire Sprinkler Requirement

We have received the attached correspondence from the Mariposa Public Utility District (MPUD) indicating that the district is not accepting responsibility for enforcement of new fire sprinkler requirements for one and two-story family dwellings. It appears that the position of the district is that enforcement of these regulations is the responsibility of the County.

Upon review of the regulations by County staff (Fire Chief, Building Director, County Counsel and the Administrative Officer) we have come to the conclusion that enforcement does not fall to the County but is an MPUD responsibility. This conclusion is supported in part by a 1986 Attorney General's Opinion regarding MPUD's duty to enforce building standards and other regulations relating to fire and panic safety adopted by the State Fire Marshal within its district. That opinion concluded as follows:

"A public utility district that provides fire protection services through a private independent fire force that is staffed and operated entirely by volunteers has a duty to see that the building standards and other regulations relating to fire and panic safety that have been adopted by the State Fire Marshal are enforced within the district, either by appointing a chief fire official of the district to enforce them or by formally requesting the Fire Marshal to assume the obligation." (69 Ops. Cal. Attny. Gen. 261, 260-267 (1986).)

The regulations in question have been adopted by the State Fire Marshal and are included in the State Fire Code. Although some of the regulations have also been incorporated into the Building Code, it is the State Fire Marshal's regulations which are the controlling authority. It is the responsibility of the local provider of fire protection to enforce the State Fire Marshal's regulations. In the town of Mariposa that agency is MPUD. It is staff's opinion that voluntarily accepting what we believe to be another agency's responsibility is not in the best interest of the County.

The County has a responsibility to enforce these regulations outside of MPUD's jurisdiction. Therefore, if requested, the County may be able to provide those services

within MPUD's jurisdiction... This should only be undertaken if the District and County enter into a formal agreement. If requested, staff is confident that an agreement could be negotiated. However, under no circumstances should the County acknowledge responsibility for this service.

Therefore, it is recommended that your Board adopt a resolution declaring that it is the position of Mariposa County that responsibility for enforcing fire codes, including fire sprinkler requirements, within the boundaries of the Mariposa Public Utility District will not be accepted by Mariposa County. Further, it is recommended that your Board direct the Building Director and the County Administrative Officer to formally convey your Board's position to MPUD.

DIRECTORS:
WILLIAM E. BONDSEU
DANA L. FINNEY
ROBERT W. MCKNIGHT
BRIAN MULLER
DAVID RADANOVICH

MARK L. ROWNEY, SEC.-MGR.

MARIPOSA PUBLIC UTILITY DISTRICT

P.O. Box 494
Mariposa, CA 95338
(209) 966-2515 FAX (209) 966-6615
mpud@sti.net

water

wastewater

fire protection

March 23, 2011

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MARIPOSA CO. COUNSEL

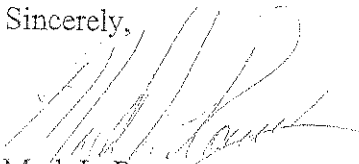
Mr. Mike Kinslow
Mariposa Co. Building Dept.
Box 1268
Mariposa, CA 95338

REF: ENFORCEMENT OF REQUIREMENT FOR RESIDENTIAL FIRE SPRINKLER

Dear Mike:

The Mariposa Public Utility District (MPUD) has had several discussions with representatives of the State Fire Marshal's office (SFM) concerning enforcement of the new fire sprinkler requirements for one and two family dwellings. After review of the requirements and communication with the SFM, the MPUD Board of Directors has directed me to notify the Mariposa County Building official that MPUD is not accepting jurisdiction or responsibility for enforcement of the above mentioned residential fire sprinkler requirements. The requirements are included in the matrix adoption table in the California Building Code, Vol. 1, Chapter 9. Jurisdiction for enforcement is also addressed in California Health & Safety Code 13146(a)(2). The MPUD Board of Directors expect the process of enforcement of the residential fire sprinkler requirements will be consistent County-wide, including within the MPUD boundary. Thank you.

Sincerely,


Mark L. Rowney
General Manager

MLR:gp

cc: Steve Dahlem (County Counsel) ✓

Mariposa Co. Fire Dept.

Ernie Paez (SFM office)

May, 2011

(-2-11)
Presented by
Victor Dubois

PIONEER MARKET - SPRINKLER SYSTEM COSTS

Update to Contract	3,093.75	- amount over contract
Add 6 sprinkler heads in ceiling by Freezer	844.00	questionable
Install 35 earthquake bracing	2,800.00	questionable
Warehouse sprinklers	18,330.10	building ex standing
Flush system	600.00	OK
Fire alarm co. - Protect Alarm Company system OK	8,053.00	
Fire Marshall Inspection fees	5,940.00	* <u>costal</u> dollars
Fire Marshall Plan reviews fee	500.00	same as above chapter
<u>Deferred Walk way sprinklers</u> (1 year) Trip to Front	10,016.50	Not in code #46
<u>Deferred Salon</u> (1 year)	<u>4,820.25</u>	Not in chapter #46
TOTAL	54,997.60	
Plus the cost of <u>original contract</u>	<u>8,500.00</u>	original contract
	63,497.60	Total Due