



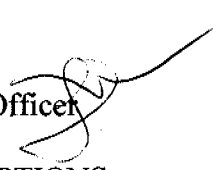
AGENDA ITEM NO.

COUNTY OF HUMBOLDT

FOR THE MEETING OF: December 1, 2009

DATE: October 30, 2009

TO: Board of Supervisors

FROM: Loretta Nickolaus, County Administrative Officer 

SUBJECT: CODE ENFORCEMENT UNIT (CEU) - OPTIONS

RECOMMENDATION(S):

That the Board of Supervisors consider the options for a County Code Enforcement Unit and Direct Staff to return with the necessary documents to implement the changes.

SOURCE OF FUNDING:

General Fund, Cost Recovery Revenue through property liens, and Income from the Humboldt Waste Management Authority.

DISCUSSION:

A subcommittee of the Board of Supervisors', comprised of Supervisor Duffy, Supervisor Clendenen, County Counsel Wendy Chaitin and CAO Loretta Nickolaus, have reviewed and revised the CEU Statement of Responsibilities; the role and responsibilities of the Code Enforcement Oversight Committee; and the organizational structure of the County Code Enforcement Unit.

The CEU is intended to pick up where departmental compliance efforts leave off. That is, after a

PREPARED BY: LORETTA NICKOLAUS, CAO & WENDY CHAITIN COUNTY COUNSEL, CAO APPROVAL 

REVIEW:	AUDITOR _____	COUNTY COUNSEL <u>WBC</u>	PERSONNEL _____	RISK MANAGER _____	OTHER _____
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TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor

Seconded by Supervisor

And unanimously carried by those members present,

The Board hereby adopts the recommended action contained in this report.

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: December 16, 2008

Dated: _____

Kathy Hayes, Clerk of the Board

By: _____

responsible department has issued two or more notices to a property owner of a suspected violation and received no response (or a negative response), the issue will generally be referred to the CEU. The intent is for the CEU to deal with the most recalcitrant landowners, compelling their compliance through enforcement actions if voluntary compliance cannot be achieved.

Under the current structure, the CEU is housed in the County Counsel's office and is staffed with a sworn (law enforcement) investigator and a part time (.16 FTE) attorney. Up until April 2008, both the investigator and attorney were cross deputized by the District Attorney.

In order to have a sworn CEU investigator either the Sheriff or the District Attorney has to directly oversee and supervise the day to day duties and responsibilities of code enforcement. The Sheriff is not interested in taking on the CEU. The District Attorney (DA) is interested in the program if it can be funded at a level that includes a full time investigator, a full time attorney and a full time clerical position.

The subcommittee's attempts of blue printing a hybrid CEU model proved to be unsuccessful. A hybrid model would have shared responsibilities between two departments such as the DA and County Counsel or Sheriff and County Counsel. Both the Sheriff and the DA were uninterested in this type of an arrangement.

To keep a sworn investigator in the unit the option available to the Board is to transfer code enforcement responsibilities to the District Attorney. The additional costs associated with this (at the level requested by the DA) would be in the neighborhood of \$175,000.

Should the Board decide to keep the CEU housed in County Counsel and change to a non-sworn investigator there would be no increased costs, however the unit would lose its police powers; and the training, experience and knowledge that go along with having peace officer powers. As has been the practice of the past 18 months the CEU would continue to work on basic clean up and abatement cases preparing nuisance proceedings for the Board and referring possible criminal cases to the District Attorney for consideration and enforcement. This is not unlike the 25 counties we surveyed in which only one county (Humboldt) had peace officer powers. However, many (if not most) county officials stated that given a choice they would choose sworn field personnel for safety reasons.

There are several investigative tools given to a peace officer that are critical to the proper investigation and enforcement of county code violations. Without these tools, the effectiveness of the CEU will be greatly reduced. These investigative tools include access to state and local criminal history summaries; access to DMV records; authority to remove vehicles from public or private property; and power of arrest and/or issuance of citations.

In addition to the investigative tools outlined above, being a peace officer allows the CEU investigator to carry a firearm (PC 12027; 12031). Without peace officer authority, the CEU investigator will more often need backup from law enforcement officers such as sheriff deputies.

Peace officer powers and POST certification provide training regarding how to properly conduct investigations, how to gather evidence, evaluate and present that evidence in a logical fashion, how to handle volatile situations, how to write, serve and file returns on inspection/search warrants and a comprehensive knowledge of the evidential and legal requirements for said warrants. All of this training and knowledge possessed by the current CEU Investigator will be difficult to replace should the position be reclassified to a non-sworn rank.

The subcommittee believes that the CEU would be most efficient in carrying out its duties with a sworn peace officer.

Two models are presented for your Board's consideration today. A code enforcement model with a sworn-investigator housed in the District Attorneys office or a code enforcement unit remaining in the County Counsel's department, with a non-sworn code enforcement investigator.

Regardless of which way the Board decides to go staff will need to come back with the details of either a transition from County Counsel to the District Attorney or the reclassification of the CEU positions in County Counsel to non-sworn rank.

In the meantime the subcommittee drafted a revised CEU Statement of Responsibilities (Attachment A), and a re-write of the CEU Oversight Committee Role and Responsibilities (Attachment B).

FINANCIAL IMPACT:

Should the Board transfer the Code Enforcement Unit to the District Attorney and fund the additional Attorney and Clerical positions, the cost would increase by approximately \$175,000.

The approximate amount of money spent on code enforcement in the County Counsel's office per fiscal year is \$168,000.

OTHER AGENCY INVOLVEMENT

The District Attorney and Sheriff

ALTERNATIVES TO STAFF RECOMMENDATIONS

Board's Discretion

ATTACHMENTS

Attachment A - Draft CEU Statement of Responsibilities

Attachment B - Draft CEU Oversight Committee Roles and Responsibilities

DRAFT

Code Enforcement Unit Statement of Responsibilities

1. The purpose of the Code Enforcement Unit is to protect the health, safety and welfare of the public by enforcing State and County codes governing nuisances, environmental crimes and other related issues. This enforcement shall be advisory, administrative, civil, or criminal in nature, depending upon the severity of the violation and the willingness of the violator/property owner to abate the nuisance.
2. The Code Enforcement Unit will give priority to those cases that impact the health and safety of the public, that cause serious environmental degradation or that significantly disrupt the well being of the community. The Code Enforcement Unit will receive guidance in this process from the Code Enforcement Case Management Team.
3. It is the goal of the Code Enforcement Unit to seek voluntary compliance by the responsible party/property owner in abating the violations he/she is responsible for. The Code Enforcement Unit may take enforcement action(s) when the violator/property owner is unwilling or unable to abate the violation(s) himself/herself.
4. The Code Enforcement Unit will take enforcement action on those referrals from other County departments that are the result of complaints, or on matters of considerable impact to the County.
5. The Code Enforcement Unit shall present an Annual Report to the Board of Supervisors within the first three months of each new calendar year. The report shall include information on the number and type of cases being handled, the number and amount of penalties issued, the number of abatements conducted, meetings of the Case Management Team and other items that may be of interest to the Board and the public.

9/11/2009

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Oversight Committee/Case Management Team Organization and Role

1. Oversight Committee History

In the Board order that created the Community Assistance Unit (CAU), the forerunner of the Code Enforcement Unit, in August of 1994, it was recommended that an Assistance Advisory Team be created. The team was to be comprised of the "core departments including the Sheriff, Probation, District Attorney, County Counsel, County Administrative Office (CAO), Health and Planning and Building." The team was to meet regularly to "discuss complaints, review cases for prioritization and ensure coordination efforts are maintained with the Unit." The members of the team were to bring the complaints received by their organizations to the meetings so that they could be cross-referenced and the most serious brought to light.

According to the Annual Report presented to the Board in March of 1996, the Assistance Advisory Team, now called the Oversight Committee, met in July of 1995 and March of 1996. The membership included the County Counsel, the District Attorney, the Director of Building and Planning, the CAO, the Sheriff and the Director of Public Health. The role of the committee was to verify and prioritize "cases presented to it by the Community Assistance Unit for consideration of further action by the Unit."

At the time of the last meeting of the Oversight Committee in August of 2008, the Committee consisted of:

Brian Cox – Division of Environmental Health
Wendy Chaitin – County Counsel's Office
Paul Gallegos – District Attorney
Kirk Girard – Community Development Services
Loretta Nickolaus – County Administrative Officer
Gary Philp – Sheriff
Todd Sobolik – Building Division
Alexandra Wineland – Public Health Branch

In addition, the members of the Board of Supervisors were invited to the meetings, but were not members. It was common for committee members to send other persons from their department if they were unable to attend. In spite of this, attendance at the meetings ranged from mediocre to poor. There were multiple meetings in the last three years in which only one member, or his/her designee, attended. The meetings were intended to be quarterly, but scheduling issues often reduced the frequency to three meetings per year.

In the past several years, the committee has provided limited input on the activities of the Code Enforcement Unit (CEU). Before each meeting, the CEU provided each member of the committee, with a courtesy copy going to each Board member, with a list of current cases along with what actions had been taken to abate the violations in each circumstance. Starting in 2006, each case was also given a priority rating by the investigator handling the case. The rating ranges from one to three, with one being a case where active enforcement is taking place while three is a case where the CEU is doing little more than monitoring the status of the property.

2. Proposed Role and Reorganization to a Case Management Team (CMT)

Upon further review of the purpose and functions of the Oversight Committee, it is recommended that the role of the committee be revised and reorganized. Since the purpose of the committee is to assist the CEU in the management of its caseload, and not to act in a supervisory capacity, it is recommended that the name be changed from the Oversight Committee to the Case Management Team (CMT).

Historically there have been more cases than can be actively worked at one time. Therefore, one of the main functions of the CMT should be to advise the CEU on which cases should receive priority treatment. Other functions of the CMT could be to provide input into the appropriate enforcement action(s) to be taken by the CEU, to contribute technical knowledge from their respective areas of expertise and to comment and advise on policy issues of the CEU. Each team member should be chosen by the Department Head of each department where appropriate and should be knowledgeable in the enforcement process of their department. Department Heads often have numerous time constraints and due to the amount of information they are exposed to, may not be intimately aware of the cases that have been referred to the Code Enforcement Unit. Therefore, it would be more appropriate to have persons lower in the chain of command be appointed to the team. The member needs to be able to speak with the authority of his/her department, however.

Directors of divisions tend to be more involved in the day to day operations of their agencies and are therefore encouraged to be members of the CMT. If, however, they feel that the team would be better served, they may appoint a subordinate to represent this division.

As the Public Health Branch only has one division that routinely deals with enforcement issues, that being the Division of Environmental Health, it appears that the team only needs a member from that division. Likewise the County Administrative Officer does not regularly deal with enforcement issues and, therefore, it may not be necessary to have a member from that office as part of the team. While the public does occasionally complain to their respective

Supervisor about conditions in their neighborhoods, there are legal reasons why it would be inappropriate to include a member of the Board on the CMT. The CEU's investigator(s) and supervising attorney are not part of the team, but are expected to attend the meetings to brief the members on cases and answer any questions.

Below is a list of the departments/divisions that would make up the CMT as well as a suggestion for the job classification of the team member.

Community Development Services/Building Division – Chief Building Inspector
Community Development Services/Planning Division – Senior Planner or Code Compliance Officer
County Counsel – Assistant County Counsel
District Attorney – Environmental Crimes Prosecutor or Chief Investigator
Department of Health and Human Services/Health Branch/Division of Environmental Health – Director or Senior Manager
Sheriff's Department – Special Services Lieutenant or Undersheriff

To effectively provide direction to the CEU, the CMT needs to have a broad range of members who are active participants. Therefore, it is recommended that a quorum of 50% or more of the members must be present for a meeting to take place. As the primary purpose of this team is to give direction on priorities, three to four meetings per year may not be frequent enough to provide input on a timely basis. Monthly meetings could easily be too much of a time load on some members and there might not be enough on the agenda to be worthwhile. Bimonthly meetings would be suggested and on a regular basis, such as the first Monday of all even-numbered months.

The Code Enforcement Task Force recommended that the Oversight Committee provide an agenda and minutes of all meetings. Due to the information contained in these documents, they would need to be kept confidential. The taking of minutes, however, may detract from full participation in the meeting by all of the participants. It is therefore suggested that an agenda be prepared prior to each meeting and that roll be taken, but that minutes not be kept.

9/17/2009