



COUNTY OF HUMBOLDT

For the meeting of: **June 27, 2017**

Date: **June 14, 2017**

To: **Board of Supervisors**

From: **County Counsel's Office, Code Enforcement Unit  
Jeff Blanck, County Counsel**

Subject: **Code Enforcement Reorganization**

RECOMMENDATION(S):

That the Humboldt County Board of Supervisors:

1. Direct staff to cease using the current referral process and have all code enforcement complaints directed to the Code Enforcement Unit;
2. Allow the Code Enforcement Unit to enforce local and state laws and regulations regarding commercial marijuana cultivation and abandoned vehicles on public property without receiving a complaint from the public;
3. Determine the best department location for the Code Enforcement Unit; and
4. Assign the Code Enforcement Unit to the selected department with transition to be completed by January 1, 2018.

SOURCE OF FUNDING:

Costs to prepare this agenda item have been borne by the General Fund. The cost to increase the size of the Code Enforcement Unit's staff, which is essential to the first recommendation will also be borne by the General Fund.

Prepared by Jeff Conner/Jeff Blanck

CAO Approval

REVIEW:	Auditor _____	County Counsel <u>JB</u>	Personnel _____	Risk Manager _____	Other _____
---------	---------------	--------------------------	-----------------	--------------------	-------------

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
 Upon motion of Supervisor \_\_\_\_\_ Seconded by Supervisor \_\_\_\_\_

Ayes  
 Nays  
 Abstain  
 Absent

**SEE ACTION SUMMARY**

PREVIOUS ACTION/REFERRAL:

Board Order No. I-1

Meeting of: May 16, 2017

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

**Kathy Hayes, Clerk of the Board**

DISCUSSION:

On May 16, 2017, the Board directed the Code Enforcement Unit (“CEU”) to conduct a feasibility study to determine if there was a more efficient way to handle code enforcement complaints. This conversation has morphed into the following three areas: discontinuing the referral process; allowing certain enforcement activities to be initiated without a complaint from the public; and relocating the CEU to another department.

Referral Process:

Initially, this study was to address the possibility of ending the process where the majority of public complaints are taken by either the Planning and Building Department (“Planning”) or the Division of Environmental Health (“DEH”). Currently, if these departments cannot obtain compliance, the matter is then referred to the CEU for enforcement. This process results in some duplication of effort as well as some confusion amongst the public and others who are trying to make or track complaints. The referral process was adopted in part to decrease the workload of the CEU staff, however, the proposal to increase the size of the CEU’s staff in the 2017/2018 fiscal year budget should allow the CEU to resume handling all code enforcement complaints.

The CEU currently consists of two full-time and one half-time field officers, a half-time office assistant and as-needed attorney support. There is additional support from the County Counsel’s Office staff. Next fiscal year’s proposed budget increases the unit’s size to five, full-time field personnel. The CEU currently has 194 open cases. This number has increased significantly in the last two months due to the increasing number of complaints related to the County’s adoption of the commercial medical marijuana cultivation ordinance. The CEU has opened 21 new cases related to commercial marijuana cultivation since April 1, 2017 and it is difficult to estimate how many additional cases will be opened as the season progresses. Planning currently has approximately 120 open cases as well as another 420 cases that have a notice of nuisance recorded and are in suspense. DEH has approximately 70 open cases related to code enforcement issues. In 2016, DEH and Planning referred about 45 cases to the CEU. If all of these cases were handled by the CEU, the total number of open cases would be 339, which equals 68 cases per officer when the CEU is at full staff. In 2016, the CEU closed approximately 67 cases per officer. This comparison is rather simple and does not address the the amount of staff time each case may take. However, it does suggest that with the addition of three more field personnel, the CEU can handle all pending cases.

DEH currently initiates the investigation of violations of local and state laws and regulations related to sewage issues, solid waste, substandard housing and hazardous materials/waste. DEH also conducts mandatory inspections of several permitted activities including the fielding of complaints against permit holders. The hazardous materials/waste program has its own state enforcement options which would remain within the jurisdiction of DEH. DEH would also continue to conduct their mandated inspections and attempt to resolve any observed violations. Initial complaints for violations of the Humboldt County Code related to sewage, solid waste and substandard housing would be transferred to the CEU.

Planning currently investigates violations of zoning regulations and building codes. These include construction or grading without permits, streamside management area violations, junkyards and marijuana cultivation. All of these activities are allowed with the issuance of a permit and it is anticipated that the CEU would handle all violations of these activities where no permit has been issued. Often times, permits or permit applications have conditions that must be met. Violations of such permit conditions would remain with current Planning investigators. If these issues could not be resolved then the permit/application would be revoked/withdrawn or otherwise transferred to the CEU for enforcement.

Currently the Sheriff's Office ("Sheriff") has jurisdiction over abandoned vehicles on the highway. The CEU deals with inoperable vehicles on private property and public property other than the highway. It is anticipated that this jurisdictional boundary will remain as currently set since the Sheriff receives funds from the Abandoned Vehicle Authority, and the CEU does not have a funding source to pay for the disposal of the numerous abandoned vehicles found on our highways.

#### **Case Initiation:**

Currently all CEU cases are initiated by a complaint from the public or as a result of a request by another State or County department. There has been some discussion of allowing the CEU to initiate its own cases in certain limited situations. The citizens of Humboldt County have repeatedly demonstrated that they wish code enforcement to be a complaint driven process. Staff believes that such a process is appropriate for the majority of code enforcement issues, but requests that exceptions be allowed for certain enforcement activities involving commercial marijuana cultivation and abandoned vehicles on public property.

The CEU currently participates in an informal, multi-agency task force that enforces local and state laws and regulations pertaining to marijuana cultivation. Such participation includes, without limitation, involvement in inspections initiated by other members of the task force. There has been discussion of trying to focus these inspections on target areas, mainly watersheds, in order to protect habitat for impacted plants and animals. The impact of this regulatory work is diminished if it is spread throughout the County. The CEU should be allowed to lend its expertise to any future effort of this nature, including the preparation of inspection warrants. When the California Department of Fish and Wildlife conducted a focused enforcement effort on Sproul Creek, it was announced ahead of time. The same or similar process could be used if the CEU is authorized to conduct focused enforcement activities without having received a complaint from the public.

CEU staff routinely drives throughout Humboldt County. As a result, they often see abandoned vehicles on public property. It would seem efficient to either assist the Sheriff in having these vehicles removed, or if resources dictate, to have CEU staff arrange for the removal thereof. This would allow the CEU to be proactive in an area that is concerning to the public.

#### **Relocation of the Code Enforcement Unit:**

The CEU has been housed in the County Counsel's Office ("County Counsel") since the inception of its predecessor, the Community Assistance Unit. From 1995 to 2008 the sole code enforcement investigator and attorney were cross-deputized with the District Attorney's Office to give them additional law enforcement tools to deal with code enforcement issues. In 2008, the District Attorney ended this cross-deputization. Since that time code enforcement has been operating effectively in the County Counsel's Office. Recently, there has been discussion of relocating the CEU to another department where there might be greater benefits. The departments that have been identified as potential hosts of the CEU include Planning, the Sheriff and the Department of Public Works. The CEU regularly seeks information from Planning and the Sheriff to complete its duties.

A majority of California counties currently house code enforcement in the community development/planning department. For instance, out of 28 counties, 24 have code enforcement in the community development/planning department, 2 have code enforcement in the public works department and 2 have code enforcement in the county counsel's office.

////

Relocation of the CEU to one of the above-referenced departments would allow CEU to utilize existing support staff that, amongst their other duties, could take initial complaint calls. This could be a significant benefit as the CEU only has one half-time office assistant.

Housing the CEU in Planning would allow easier contact with the planners responsible for land use and zoning determinations. In addition, Planning staff is also familiar with the CEU, especially with regard to land use. Accordingly, it would take less time to train Planning staff to handle any new duties associated with code enforcement, and code enforcement officers could learn to handle planning violations.

The Sheriff and the CEU currently have some duties that are closely related or overlap. Two examples of such overlap include, the regulation of marijuana cultivation and the disposal of junk vehicles. Relocating the CEU within the Sheriff's Office would significantly increase efficiency in these areas. Both Sheriff and CEU personnel travel throughout the County and could assist each other with simple tasks without significantly impacting their primary duties. The Sheriff is located in the Courthouse which allows easy access to the Tax Collector's Office, the Assessor's Office and the Recorder's Office as well as their public access computers. However, the Sheriff does not currently have adequate space to house six new staff members.

As mentioned previously, the CEU has been part of the County Counsel since 1995. The location within County Counsel also allows easy access to legal assistance, other County departments from which the CEU obtains information and Court Operations. In addition, County Counsel currently has the physical space to adequately house three additional employees. Any relocation of the CEU would take time so as to not disrupt enforcement in the current calendar year.

#### FINANCIAL IMPACT:

The recommendation to cease using the referral system requires the hiring of three additional field personnel. This increase in staff has been included in the County Counsel's fiscal year 2017/2018 Supplemental Budget Request in account 1100-121. The proposed cost of these three employees is \$385,131, including vehicles and ancillary equipment.

There is no immediate financial impact associated with allowing the CEU to initiate enforcement activities without receiving a complaint from the public. The costs to tow abandoned cars on public property would be borne by either the budget of the department in which the CEU is housed or transferred from the Code Enforcement Trust Fund. It is unknown at this time what those costs might be since such costs are heavily dependent on the location and type of vehicle being disposed of.

There may also be costs associated with moving the CEU to another department, including the costs of preparing work space. However, these costs would be dependent on which department is selected to host the CEU and cannot be determined at this time.

Today's recommended actions support the Board's Strategic Framework by seeking to more efficiently enforce the Humboldt County Code and other local and state laws and regulations.

#### OTHER AGENCY INVOLVEMENT:

None.

////

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could elect to retain the current process of having DEH and Planning take the initial complaints from the public. This alternative is not recommended as it requires some duplication of effort and can be confusing to the public who are trying to make or track a complaint.

Your Board could also elect to retain the current case initiation process in which all new cases require a complaint from the public or a request by another department.

ATTACHMENTS:

None.