

ACTION MINUTES

LAND USE & COMMUNITY DEVELOPMENT COMMITTEE

July 22, 2021

- MEMBERS PRESENT:** Frank Axe, Supervisor District 4
Richard Forster, Supervisor District 2
- MEMBERS ABSENT:** None
- STAFF PRESENT:** Glenn Spitzer, Deputy County Counsel
Michelle Opalenik, Director Environmental Health
Michelle Gallaher, Code Enforcement
Mary Ann Manges, Recording Secretary
- OTHERS PRESENT:** Sherri Adams, Chief Assistant District Attorney
Jamie Cone, Executive Legal Assistant

Supervisor Axe called the meeting to order at 2:07 p.m.

AGENDA: Approved

CORRESPONDENCE: None

APPROVAL OF MINUTES: June 24, 2021 approved

PUBLIC MATTERS NOT ON THE AGENDA: None

ITEM 1: Discussion and possible action relative to creating a stronger ordinance enacting more severe penalties for littering in Amador County

Supervisor Axe introduced the item.

Deputy County Counsel Spitzer shared that the current ordinance essentially tracks the State penal code and that ways are being explored to give our code more teeth. He commented that when the full process with administrative penalties is gone through that there is a right to appeal which costs about \$25. He added that San Diego scrapped theirs because it was so burdensome. He commented that if the Sheriff catches someone onsite it is solid evidence and that if Ms. Gallaher brings it forward that it needs to be video evidence because the chance of her seeing someone in the act is minimal. He shared that whether that video evidence holds up in court is questionable and probably not worth the resources of going through the entire internal process and then handling the court action on top of it. He stated that the penal code is pretty solid and that there is no reason to have anything in the municipal code because it is already in the penal code. He explained unless there are provisions in the municipal code that are more intense than the penal code. He stated that it seems that the issue is resources for enforcement and prevention and that a dumping day could help with prevention.

Supervisor Forster questioned how San Mateo's ordinance can go further.

Mr. Spitzer responded that they possibly have the resources or have a pretty robust code enforcement department and added that a lot of money needs to be spent on video to be able to have robust evidence. He added that the penal code does not have administrative penalties, he sees them as useless and that the use of the existing penal code seems best.

Supervisor Forster asked to confirm the cost of good video system.

Code Enforcement Officer Michelle Gallaher responded that a set of cameras per site is about \$1500.

Supervisor Forster commented that we could be better off with signs saying that a site is being videotaped.

Ms. Gallaher said other agencies shared with her that signs are very effective and because video systems are expensive to just put the cameras in a few spots. She suggested that they could be rotated between spots. She added that she would not pull people over to cite them if she sees them dumping though as she has no protection.

Chief Assistant District Attorney Sherri Adams said that they can prosecute as long as they can identify the person through the evidence and added that if the dumped items are above one cubic yard in size that it is considered a misdemeanor. She added that infractions cost money, that there is a jury trial, and that they do not show up as a misdemeanor. She added that San Joaquin County has a problem with illegal dumping and that they have a huge task force. She shared that they found that cameras can have downfalls and that the wrong person can be prosecuted.

Supervisor Axe shared that if the goal is to make them go out and clean it up, prevent them from doing it again, and provide an example for others in the community that we do not have to go to trial.

Ms. Adams shared concern that the dump site might not be cleaned up appropriately, especially with dumped oil. She stated that we want them to pay the cost for the cleanup and that if staff has to watch them do the cleanup that we might as well just have them pay for it. She added that it is not desired for them to pack it up and then just dump it at a different location. She shared that dumping of hazardous waste should be prosecuted by the District Attorney.

Supervisor Forster voiced that he does not like the 24 hour language in the current proposed ordinance and that most people are going to say they did not do it.

Ms. Adams added that she does not think the current proposed ordinance is feasible. She shared that San Joaquin County is exploring adding a portion to their ordinance where the registered owner of the vehicle is responsible as a deterrent. She added that Oakland has an ordinance where the owner or operator of the vehicle or trailer can be held liable for all costs, penalties, and fines related to the illegal dumping when owner's vehicle is used with express or implied permission. She said there could be an ordinance within an ordinance.

Supervisor Axe commented that it is easier to get a picture of a license plate.

Supervisor Forster shared that he is more interested in sticking a violator the first time with as much of a fine as possible and to then have progressive discipline for subsequent violations.

Supervisor Axe stated that he agrees and that if this works that a good picture of a license plate should stand up versus a picture of a face and that this can be advertised as a deterrent.

Ms. Gallaher shared that ACES provides unlimited bins. She added that cameras can always be rotated and shared that it costs about \$1500 to \$2500 for the whole day to do a cleanup day and that it could help with prevention and be held in each of the supervisorial districts.

Supervisor Forster shared that cleanup days in lone have been very successful.

Mr. Spitzer shared that he will reach out to the City of Oakland.

The Committee discussed bringing this back to the next Land Use meeting with the hopes of also having input from the Sheriff's office.

ITEM 2: Consideration of revised Onsite Wastewater Treatment System Regulations - Environmental Health

Supervisor Axe introduced the item.

Environmental Health Director Michelle Opalenik shared that her primary interest is to move the department out of the designer role and have the private sector design onsite wastewater systems. She added that this will reduce liability and responsibility especially since parcels are becoming more challenging. She continued that Environmental Health will still be present for profiles, and still do plan checks, approvals, and inspections.

Supervisor Axe suggested to vet this out, get it Board ready, and then off to the State.

The Committee discussed sharing proposed comments via e-mail and to bring this back to the next Land Use Committee meeting.

The meeting was adjourned at 3:30 p.m. The next meeting date is tentatively scheduled for August 26, 2021 at 2:00 pm.