

TO: General Government Committee

FROM: County Counsel Planning and Building Services

MEETING DATE: December 12, 2016

DEPARTMENT CONTACT: Michael Makdisi

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DEPARTMENT CONTACT: Steve Dunncliff

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ITEM TYPE: Regular Agenda

TIME ALLOCATED FOR ITEM: 45 min.

AGENDA TITLE:

Discussion, Possible Referral to Board Of Supervisors, and Possible Direction Regarding Revision and Development of Five Code Enforcement Ordinances: (1) Establishing Office of County Hearing Officer, (2) Establishing Administrative Citation and Penalty Procedures, (3) Revising Public Nuisance Abatement Procedures, (4) Establishing Cannabis Specific Nuisance Abatement Procedures, and (5) Revising Chapter 9.31 to Reference New Cannabis Specific Nuisance Abatement Procedures.

RECOMMENDED ACTION/MOTION:

- (1) Direct staff regarding development of proposed Chapter 2.76, establishing Office of County Hearing Officer, and refer to the Board of Supervisors ("Board");
- (2) Direct staff regarding development of proposed Chapter 1.08, establishing administrative citation and penalty procedures, and refer to the Board if Chapter 2.76 was referred;
- (3) Direct staff regarding revision of Chapter 8.75, revising public nuisance abatement procedures, and refer to the Board if Chapter 2.76 was referred;
- (4) Direct staff regarding development of proposed Chapter 2.76, establishing cannabis specific nuisance abatement procedures, and refer to the Board if Chapters 1.08, 2.76, and 8.75 were referred;
- (5) Direct staff regarding revision to Chapter 9.31, changing the reference from 8.75 to 8.76, and refer to the Board if Chapter 8.76 was referred.

PREVIOUS BOARD/BOARD COMMITTEE ACTIONS:

Board of Supervisors referred this matter to the General Government Committee on November 14, 2016.

SUMMARY OF REQUEST:

County Counsel and PBS propose five code enforcement ordinances to provide more efficient and effective code enforcement procedures. This includes revising two Chapters of the County Code and establishing three. The first three ordinances apply to the entire County Code.

(1) Establishes the Office of County Hearing Officer to satisfy due process requirements in conformance with Government Code section 27720 et seq. Standardizes the process when utilizing hearing officers, provides for qualifications, powers and responsibilities of hearing officers, provides rules regarding the process of appointing and contracting with hearing officers, and creates consistency within the code.

(2) Establishes an administrative citation and penalty procedure applicable to violations of any provision of the County Code. This is an alternative enforcement mechanism when others are inappropriate, insufficient or ineffective. Provides for an authorized enforcement officer to issue administrative citations for code violations, providing increasing penalties for repeat or uncorrected violations; provides for an appeal process, heard by a hearing officer, to challenge the citation/penalty; provide specific rules regarding the appeal hearing, hearing officer, and administrative order; recognizes the right to judicial review of the administrative decision and provides enforcement mechanisms if the penalties are not paid.

(3) Revises Chapter 8.75 to simplify and clarify the existing public nuisance abatement process. Creates a more efficient and workable procedural framework with a retained core focus on code compliance through actual abatement by the County. Key provisions: describe the administrative abatement procedure; provide alternate service procedures and new procedural timelines; removes administrative

penalties provisions; clarifies appeal procedure; removes referral to a hearing board and refers to hearing officers only; clarifies the hearing officer position and role; allows for attorney representation at hearings; clarifies hearing procedures and determination after hearing; clarifies actual abatement procedure by County; clarifies County's procedure to recover its costs of abatement; clarifies procedure to request hearing and subsequent determination after hearing regarding cost recovery; clarifies County's remedies to collect its costs through special assessment and abatement lien that requires a resolution by the Board of Supervisors; reorganizes entire chapter for clarity and flow.

Two ordinances are cannabis specific.

(4) Establishes a nuisance abatement and code enforcement procedure applicable to nuisance's caused by the cultivation of cannabis as an alternative to the abatement procedures in Chapter 8.75. This ordinance will provide expedient and robust procedures to effectively deter nuisances and code violations presented by the unique circumstances involved with cannabis cultivation. Key provisions include: a description of the required process prior to abatement by County, including issuance of an administrative order to show cause, automatic hearing procedures, and notice requirements; hearing procedures to be held by a hearing officer; procedures and timing for abatement by County; liability for costs of abatement, which will be on the responsible party; procedures for County to recover its costs; incorporates the administrative citation and penalties procedures, with cannabis specific modifications that also provide for a more expedient process; incorporates sections from chapter 8.75 by reference where appropriate.

(5) Revises Chapter 9.31, section 140, eliminating reference to Chapter 8.75, replacing it with reference to the new, alternative, cannabis specific nuisance abatement and administrative penalty section.

County Counsel and PBS propose that this Committee provide direction to staff regarding these five items; refer them to the Board of Supervisors as two separate agenda items in order to separate the discussion of items 1-3 from 4 & 5; and report to the Board of Supervisor's during their December 19, 2016 meeting about this Committee's findings.

ALTERNATIVE ACTION/MOTION:

Provide direction to staff and continue matter for future committee hearing.

SUPPLEMENTAL INFORMATION AVAILABLE ONLINE AT:

FISCAL IMPACT:

SOURCE OF FUNDING: N/A
CURRENT F/Y COST: N/A

BUDGETED IN CURRENT F/Y: No
ANNUAL RECURRING COST: N/A

SUPERVISORIAL DISTRICT: ALL

VOTE REQUIREMENT: MAJORITY

AGREEMENT/RESOLUTION/ORDINANCE APPROVED BY COUNTY COUNSEL: Yes

CEO LIAISON: Alan D. Flora, Assistant CEO

CEO REVIEW: Choose an item.

COMMENTS:

BOARD ACTION

Approved _____
 Records Executed _____

Date of Meeting _____

Referred to _____
 Other _____