

HUMBOLDT COUNTY BOARD OF SUPERVISOR'S MEETING of JUNE 5, 2012
AGENDA ITEM: BUILDING AMNESTY PROGRAM, recorded from TV broadcast

Transcribed for **Civil Liberties Monitoring Project** by Suzelle (* marks unheard words)
(Underlining by Bonnie Blackberry)

CHAIR VIRGINIA BASS: Supervisor CLENDENEN is bringing our second item to us, initiated by a board member, Supervisor CLENDENEN.

SUPERVISOR CLIF CLENDENEN: Thank you, CHAIR BASS. It's my pleasure to welcome Chief Building Inspector, TODD SOBOLIK, Department of Environmental Health Director MELISSA MARTEL, and just at the outset acknowledge Department of Health and Human Services Director PHIL CRANDAL, for his enthusiasm and for bringing this forward, and former Planning Director KIRK GIRARD, and his successor in the interim MARTHA SPENCER. I appreciate everyone's work on this. Staff's done some good background work on this, and it's my pleasure to bring this to the board, to see if the board is as enthusiastic as I am about a possible amnesty for Building and Environmental Health. And I've had some other community input. But I'll hand it off to you guys. Thanks for being here.

TODD: MADAME CHAIR and MEMBERS OF THE BOARD, I'm **TODD SOBOLIK, Chief Building Inspector for Planning and Building**. This goes back quite a ways; CLIF and I have been talking about an Amnesty Program for some time. Mendocino County came out with one about a year ago now. A voting official down there is a friend of mine, and I've been following it closely, and seeing how it worked. I was surprised how it worked, and any problems they had in sometimes assessing how to improve it. Siskiyou County has also come up with an Amnesty Program. Theirs is only a month and a half long though. They've hooked it with building safety. There was some good information in both those programs and also about some problems that we should hopefully avoid.

The Amnesty Program is seen to protect Public Health, Homeowner Safety, and Environment, by encouraging property owners to complete the County permit process that ensures that construction meets the standards. We are proposing that during this period that fees will be waived as far as penalty and investigation fees for Building, Planning, and Environmental Health. The regular permit fees and processing fees would still apply.

The type of structures that we're looking at that would be applicable for this type of program would be residential and residential-accessory structure, both the regular permit and the Alternative Owner/Builder type permit.

We've discussed a lot of things, and I think where we're a jump ahead or a step ahead of the other counties is to have a complete packet of information available. This would include a flyer, step-by-step process, procedures, a fact answer question sheet, a certification form to be completed by contractors that would actually speed up the system and that would actually be more consistent, any information that would be standard with our other hand-out. Also there would be a pre-application screening. This would let property owners know if there are any major problems up front, and if the Amnesty Program's not for you, or, yes, everything is a green light or go. This Amnesty Program is not to waive any local or State codes or regulations but to work within them, and to help permit non-permitted structures.

And we've all heard about stories where people had gone to real estate, and bought a piece of property and they said, all of a sudden they had a violation on it, and they had no idea they'd bought something that had an illegal addition on it, or a structure that was built without a permit. This is the way to legalize those structures. And we're getting more and more questions on these types of structure due to financing from banks. They're going back and they're not just asking, did you get a permit, they want to see a final on that permit. And we've had a couple in lately, and they were alternative owner/builder permits, and they got

most of the way through, but they never got a final, and now we're going back and * the process. In the long run, I think it will help a lot, for the people, and for answering the questions.

CLIF: Thanks very much, TODD. And I just want to underline one point there that you made that I think is really important for folks that might be contemplating this, is the pre-application screening. There's going to be an opportunity for people to, without any penalties, look and see if this works for them in their particular situations, and then, if not, they can go back to the status quo.

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And it's something we can offer, but it's not compelling. They can tiptoe into this without putting their. . .if their situation doesn't happen to be legal, we're not going to be putting them in any more peril than their status quo, so I think that's a good point to underline.

TODD: That is correct. We get questions all the time right now where people are asking building questions, where we probably know that there's no permit on it, but I'm happy to answer them. My job is to have safe structures out there, and any way I can help promote that, I want to.

SUPERVISOR JIMMY SMITH: Thanks, TODD, MELISSA. I have interest in this. And I have been supportive, actually, in developing the program for a long time. I think it's a prudent thing to do.

But a couple of the things I really am concerned about is: the structure is one issue, the other one's going to be water supply and the other one is going to be wastewater treatment or disposal, so, it's a little more complicated that way. What are your thoughts about water systems, wastewater?

TODD: Can I mention one thing first? Unlike the other two counties, we are cooperating, we're working together to develop a plan, so, we have a united front, and instead of looking at it independently, and I think that's what is important for it's success, and I just want to give you that up front.

MELISSA MARTEL: Division of Environmental Health is pleased to propose the developed staff recommendations to your board regarding developing an Amnesty Program. We would propose to waive penalty fees for existing on-site wastewater treatment systems that were installed without permit, primarily to include standard sewage disposals, or gravity flow, systems, but may also include anaerobic standard systems, such as is common now, experimental systems such as composting toilets, and grey-water systems.

We would propose to accept and evaluate qualified professional documentation of these systems by following the normal application process for installations that demonstrate compliance with the basic plan for our area or be modified to do so. We would propose that normal permit fees apply and would offer a non-committal pre-application screening, and would meet with the applicants to help the owners determine whether they wish or are qualified to participate in the program.

Individual water wells dropped without permits cannot be part of this program because of the difficulty of evaluating the construction. We will be working closely with the Building and Planning Departments to offer the Amnesty Program to the community. And we would propose to develop forms, pending the support of the board, and, I think as TODD mentioned, pre-application screening questions for when an applicant comes to our office to inquire about the program and then an evaluator checklist for sewage disposal design systems, because it will allow professionals to go out there and evaluate the system.

I'd like to address your question about water, JIMMY. At this time it can't be included in the program, but we will be evaluating the sewage disposal systems.

JIMMY: So, TODD, back over to your area of expertise, on the structures, we've had some problems in the past trying to make sure that all the agencies are coordinated inter-county, and I'm really pleased to hear that there's a solid block relationship, to make sure that that coordination takes place between our departments. But in some cases, some of those properties have been under the assessment rules and the others haven't. Just in the sense of your knowing this county, as a lifetime resident, what do you think about this Amnesty Program in comparisons with the other counties? What do you think that's going to pick up in terms of non-compliant permitted buildings, either in your assessed evaluation category or not?

TODD: That's a good question. You know, as I said, I was following Mendocino's program really close. I talked to the Building official down there when they first came up with it, and they were going to propose it, and I thought, this will be interesting, and I checked back with them several times, and at the end, I was really surprised. I expected maybe 10 applicants, something like that. At last count they had over 220. They're really close to us, as far as a lot of rural areas where no permits are. Their program was a 6-months start at first. Then they extended it 6 months. They did not do it again.

You know, I'm kind of proposing to look at it for maybe a year, and then coming back to the board. I think it could be really good. I think it could help a lot of people out there. We have a lot of people who built structures a long time ago, now they're moving closer to town. Their kids moved out of the

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area; they're not interested. And they want to sell the property, but banks are not interested in loaning money to prospective buyers, cause it's not good credit, so hopefully, we can get some of these in here. I would say most of them are probably on the tax roll right now. You know there may be small additions here and there. And this doesn't only apply to the rural areas, there may be, say, in Cutten, somebody may have put a room on the back of their house without a permit, or built a detached garage in their backyard, this will apply to those projects, too.

So, Health won't be involved all the time, because that would be on community service, and we have processes, we've kind of jumped the gun a little bit on some of this stuff, we have processes in place, such as certification forms, but that applies to current projects right now. It just, it's not part of the Amnesty Program, but we needed to have something that was consistent, something that's streamlined, so when inspectors looked at something, they were looking at the exact same thing.

So now we have certifications for plumbing, electrical, mechanical that an electrician can fill out, and we're getting the information we need. So one inspector can say, well, I need this, and another inspector can say, well, I need this. We're consistent. And we have the forms available at the front counter, so we're streamlining that part of it right now. Did that answer your question?

SUPERVISOR MARK LOVELACE: I want to thank CLIF for bringing this item forward. I'm very interested in the subject, and it's obviously been something that is a long-standing issue with the County. But my fundamental question is just in terms of what we're doing here on this today, because we have simply something to consider, directing staff to develop the Amnesty Program. So we don't have that before us, clearly.

The model from Mendocino that's being referred to, we don't have that really before us either. So I'm curious as to what you can tell us as to what you think the process would be for developing this, as we go forward, particularly in trying to reach out to some of the folks that the Amnesty could benefit, figure out how we can bring them into the system.

And the issues with the unpermitted development are. . .there's two different pieces to it: there's the permitting side itself, and then there's the cultural side. We've had, historically, a lot of the unpermitted development. . .some of the folks who have talked to me have told me

that it's been because some of the people did not want to come in for a permit, did not want to have to go through that process because they were worried that the Building Inspector was going to find that they or their neighbor have a marijuana grow, and there's been that concern there. Obviously that, culturally, has been changing, for better or for worse, depends on your neighborhood, but I think it's important that if you're trying to do this in a way that brings people into the system, we have to figure out what's their comfort level, and how we do that? How do we get them to understand that this thing is trying to help them? Because I agree wholeheartedly here with what the staff is saying, that the important thing is to get these permitted, to make sure that they're up to Health & Safety codes. So, I guess, just a little discussion on the process you see of bringing this forward and reaching out to the affected community is what I'm interested in hearing.

TODD: Yes, I do believe there is a learning curve here. You know, we need a couple successes in this, and then to take off. I guess to start the process will be to basically get marching orders with the Program, develop the program, come back to us with the board report, to go on coordinates with the time period, and then we'll have a Program. We do have to have somewhat of a P R Program, besides this board item on the agenda, and a flyer. We will have that, we'll send out flyers in some places, public service announcements.

I would be happy to go to any public meetings to discuss this. You know, in different areas, they say, Will you come down and talk about this program? You know, I think anything we can do to sell this program would be great. This is a chance. I hope people will ask questions, and people who have dealt with me know that I'm real honest and consistent, and, you know, what I tell them, that's what it's going to be. So, I hope we have people asking questions, and we can get that answer out, and develop the mission out there.

MARK: I appreciate hearing that. I want to make sure that from some of the questions I've heard from folks I just want to make sure that that's understood by the broader community, that while there may be a starting point with this Mendocino Program that that's just a model for use as a starting point to develop something that is not going to be copycat necessarily; it's going to be a matter of, you know, working with the community to figure out how to make this work.

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TODD: Correct. Both of these programs, we're really not going to copy. Mendocino had a flyer. Butte County had a flyer and a Question & Answer sheet. I don't think any of them had the stuff that we've already done just to permit non-permitted structures. Because we've incorporated into that (I don't think anyone has) a complete packet of information that will be available at Environmental Health or Planning & Building, where they can actually stop by and pick it up, or Could you mail us a complete packet? I don't want to start having to go through and pull out this one and that one. There's packets available, so we can reach into a drawer and pull them out and hand them to someone.

So, no, I look at this as a complete program for Humboldt County, that I feel was inspired through Mendocino County, I think, and their success about people coming in. It was very positive. And the other ones, and that's what I said, what I've seen is some of the problems, they didn't have some of the stuff that we have, and are proposing, and that's why I looked at their programs.

MARK: And my last questions on this: Are one, when you talk about doing this as a year program, instead of six-months, do you have any idea what you see as the ideal year for this? Do you look at a calendar year, stop and start at January 1st? Is there any better or worse way to align this over the course of 365 days to make it most helpful for actually making it a functional program?

TODD: I do not see. . .as long as it has that year in there. . .Mendocino County did 6 months at first. They came back and did another six months because of the wet weather or dry weather, I think that's why they extended it to a year. I think when we have a year program it

doesn't matter where you start. I would like to start the program as soon as we prepared everything and give it to you with a complete board report.

MARK: Okay. And the last one is just to clarify on, once I get your comments, so I understand regarding the wastewater, essentially what you're saying is that, rather than having a design standard, we would have a performance standard, for that to be able to allow some of the experimental systems.

MELISSA: There would still be a design standard, but we would allow an evaluator, a professional engineer, an environmental health specialist, to go out and evaluate the systems in our place, so we, as Environmental Health Inspectors, don't have to go out on site at a facility to evaluate the systems.

MARK: That's so that if something has a non-standard system, septic, anaerobic(?) or experimental grey-water, some of these where we don't have a clear pre-existing design standard it will be looking at the design of it, a professional consultant looking at it, and insuring that it should perform adequately.

CLIF: I just wanted to underscore Supervisor Lovelace's first question, or point. You know, after a couple meetings I realized that we really need to get the full board to give thumbs up or down before moving forward here, and these guys have actually done a fair amount of work, but it's time to step back and introduce this, and really get the board's blessings before we go ahead.

I also want to say there are certainly individuals who've been around this county a long time that have a lot of experience in developing AOB regulations, that'd be people like Fred Bauer, Dan Taranto, and I'd be happy to meet with them, and you, as we trot this out.

And I've heard also from Tasha McKee, on the water tanks, wanting to be able to have water tanks, to restrict water withdrawals in the summertime in impacted areas like the South Fork of the Eel and the Mattole, and want to see whatever we can do to see this program be positive for that. When you get the building legalized, then it's much easier to site a permitted tank there. So, anyway, I'll look forward to meeting with some of these interested individuals with you.

This might be a question, now, for Planning Director Spencer, but we should talk about planning and zoning aspect of this, because, in addition to an illegal building, it can also be in an unsuitable zone, maybe a 40 acre minimum, for instance, that has two residences on it, so how are we going to tackle that? And also I know Director Spencer has been meeting with Cal Fire, and some other folks have, as well, as far as their fire regulations and road standards, so would you be willing to tackle that one?

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MARTHA SPENCER: Yes, we actually have. . . in preparation we've designed a little hand-out that deals with some of the planning issues that we see will be attached to this. So that was one of the things we thought we'd better get an idea of, some of the obstacles that zoning regulations may throw into this program. So we thought we'd do a little If This Then That kind of hand-out that will go along with this packet.

We have been meeting with Cal Fire. We've been trying to kind of figure out a way that we can deal with some of the fire-safe standards. They are willing to work with us on some of the exceptions that we need to do for some of these already existing buildings, so that's in the works. It does become a little more problematic if you have more than one house on a property, dealing with zoning. We can't change our zoning regulations for that. It may be something we're going to have deal with in the General Plan Update or something more

traditional.

CLIF: Again, not to drill down too specifically, but in our conversation yesterday, I believe it was, the Cal Fire road regulations have evolved over time, so, depending on when the structure was built, the property owner could potentially take advantage of. . .I mean, again, not to have an unsafe road the fire truck can't get down, but there is some flexibility based on when the structure was built.

MARTHA: That's correct. TOD can correct me if I get the dates wrong, but anything that was built before 1992 does not have to meet Firesafe Standards, and also the Streamside Management Coordinants which was done in 1995, if there were structures that were built before 1995, they don't have to meet those set-backs. That has been problematic in the past.

CHAIR BASS: I have a few questions. First one I want to ask MELISSA. regarding the LOVELACE questioning, and I just want to make it clear that even if we have someone come out to do the evaluation of the system, they still have to perform in accordance with the basic plan. [That is correct.] That's what I was getting at. It wasn't just design specifications, it is performance standard as well. So, whereas we're not setting a standard, there is a standard which they have to perform to.

And then there's just a couple if we have time, from the gist of the concerns I've heard, while it's great that we're offering, and we're not necessarily compelling, I think that there's a real concern that if they come in and somehow they get to the process where they say, Well, you're not really appropriate for this, I think they are afraid . . .How do they have the comfort level that they know they're not going to be turned in anyway, because we basically told them it's not going to work for them? I think they're afraid that they're going to be on the hook for just even coming in. So that's kind of a concern that I heard. It's kind of similar to what you're talking to, about, kind of accidental discoveries. So what are we going to do to give them peace of mind that that's not going to happen?

TODD: That would be the pre-screening meeting, or application. Basically all of those questions we can look at. My recommendation is talk to Health first, and make sure you can go through their system. Talk to Planning, make sure everything's okay. You know, here's all the forms, but actually talk to someone. Meeting the building requirements is the easiest part. It's pretty cut and dry, especially if you're an Alternative Owner Builder, but yeah, let's talk and let's have a question first. You know, they can give us a name, but there's nothing being recorded at that time. They can be, you know, Jim Smith, or Jimmy, heh heh, that just popped out. [laughter] They can be Mr. Jones. You know, it's just information. As I said, I want to be able to give information, and until you open up a formal application you're not going to be recorded beyond that. We can answer all the questions many people ask.

VIRGINIA: I think it's part of a really good point, this is actually going to help a lot of folks, especially when you talk about the banks, and the interest rate is historically at an unbelievably low place rate now. This is what my husband does for a living. There are so many people that come in, who seriously need that loan, and they're months away from leaving what they have, and they wind up thinking there's something that's not right, so I think there's a way to, when you talk about getting the word out, I know that can be very helpful because I don't think people don't necessarily realize that they can't get a loan on that - property that has those issues. So along that line I'm curious when you talk to groups, have Association of Realtors weighed in on this? Or * groups who are in opposition are people you need to talk to.

TODD: I haven't talked to any groups on the subject yet. I've talked to a few individuals, and, you know, I think everyone would be in support of this. As you said, the money's tight out there. You'd be surprised what the banks are kicking back, and they thought we needed to do a lot of paperwork. Things that we've approved.

VIRGINIA: I'm not surprised at all. I see my husband working long hours in the night and morning, trying to make things work.

TODD: I think we get stuff we've approved, and now they're wanting everything filled out this way. * doesn't require that, I'm sure. We've been trying to do anything to help people through this process because, you know, we're always the last one they come to, you know, I need this tomorrow. Hopefully, through this program, we won't have all these people coming--I need this tomorrow, especially when the house is built without a permit. This will help take the angst out of that issue. Yeah, I think, talking to the realtors, talking to title companies, talking to everyone that we possibly can, will help solve this problem.

VIRGINIA: I'm just curious, because I think you just added a whole different area than I've been thinking about.

MELISSA: Can I answer your first questions? On Environmental Health, the pre-application screening, we have a list of questions that really evaluates the geological study, that's the sewage disposal system. We don't have any plans to ask for the applicant's name, their address, or any assessor's parcel information, anything that will identify them. So they can get through the pre-application process without identification.

SUPERVISOR RYAN SUNDBERG: I appreciate the conversation, so far. I think we all got the emails. Some people were worried that this would turn into you guys just hiring a bunch of building inspectors and going after people and fining them a bunch of money, and losing their homes. I don't think that's the intent of the program. I tried to relay the information that we didn't have the resources to do that, and if we did we would hopefully go after the worst offenders first. This is only for people who want to become legal for one reason or another. And for one reason or another they didn't get their permit in the first place, but now they want to become legal.

It's also homes that have been built without permits that are on subdivided properties, illegally subdivided properties. From talking with Wendy earlier last week, *. . . seemed to think this process had been set up to help people in that situation. Is there anything we could do to change or help people that are illegally subdivided in this process to become legal? Because there are people (I've heard from them lately) that are in that situation. They want to become legal. They want to try and do whatever they can. But it seems like that illegal subdivision issue is *. Is there anything we can do to help those folks?

MARTHA: I think that would probably be a process for Planning. It wouldn't be appropriate for the Amnesty Program, which is really dealing with illegal buildings, because the subdivisions deal with, that's a State Law, The Subdivision Map Act, that we would have to comply with, so that would probably, you know, it would be a separate program through your board if we wanted to do some kind of, you know, help for people to get through the subdivision process. It is a discretionary process outside of the building permit.

CLIF: If I could just add in a little situation of that: sometimes you've got a large area that has been subdivided, maybe 40 or 80 parcels, and like the situation Supervisor SUNDBERG and I talked about where you've got a perhaps innocent buyer who's got one of these, but they don't realize that the parcel they're paying taxes on is really subject to, you know, it could be in a multi-thousand acre subdivision that didn't go through a public process, and it's illegal under the Subdivision Map Act. So, no, this program certainly couldn't fix that one lot, because that one lot is part of a whole that has to legally go through a public process that never occurred. So, again, I'd certainly be happy to work with any of those individuals to try to resolve that, but it's not a small problem.

MARK: And I just want to tag onto the question about the concern that some folks would have about coming into the system, that they would find themselves stuck in the system, and not able to get out. And I'm certainly aware of that concern from a lot of folks, and that experience that some folks have had.

But, you know, when we're talking about a program like this, you have to keep in mind that property ownership comes with property rights and property responsibilities. And a person who builds a house on a property has a responsibility to have that house compliant with law and permitted. And so whether or not they choose to come into the system, their choice to not come forward as part of the project, you know, if we present them with the opportunity, if they choose not to do so, it's important to understand that that doesn't absolve them of the responsibilities to do so.

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Where we can do everything we can to put out the invitations and try to come up with a system that makes it as inviting as possible to try to resolve these long-standing issues that go back decades in the county. But for each individual case, it's ultimately going to be their choice of whether or not to step up and get it done. But, again, it's important to recognize that their choice to not come in for this, to not take this opportunity, doesn't absolve them of their property responsibilities.

CLIF: I just want to say to those applicants who have come in the front door, got a building permit, dotted all the i's, did all those things, Thank you. And that's really the process that we want here. And that's why we have a defined period. This isn't just open-ended, so that you could just build, and then later, with no fault wait for an amnesty program. This is a unique time period, and not a carte blanche situation. I feel like this helps overall to the county and to everyone. But I just wanted to underscore that point.

VIRGINIA: Anyone in the audience want to comment on this item? [no one, apparently]

CLIF: I move that we accept the staff recommendation to direct staff to develop an Amnesty Program for Humboldt County.

JIMMY(?): I would just ask the maker of the motion if he would be willing to specifically include that the, directly include an outreach component for the design of the program and for promoting participation in the program.

CLIF: That's excellent.

JIMMY: I just wanted, based on MARTHA's comments and experiences in the past, that if there are some at least minor policy issues that we have to deal with, maybe you could bring those along in the package too, and we could incorporate whatever changes might be needed if we decide to move forward with this. But I'm very supportive. I think this is a great idea. I appreciate the great work that you've done on it.

CHAIR VIRGINIA BASS: All those in favor? [Sounded like all voted in favor.]

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