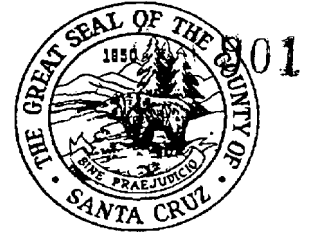


COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the **Date of** May 25, 1999

REGULAR AGENDA Item No. 062.2

(CONTINUED TO JUNE 8, 1999 consideration to accept
(report on the formation of a technical advisory
(committee for **onsite** sewage disposal, with an
(additional directive that County Counsel report back
(with what options are available to the Board to form a
(Technical Advisory Committee and be observant of the
(open meeting law...

Upon the motion of Supervisor Wormhoudt, duly seconded by Supervisor Beautz, the Board, by unanimous vote, continued to June 8, 1999 consideration to accept report on the formation of a technical advisory committee for **onsite** sewage disposal, with an additional directive that County Counsel report back with what options are available to the Board to form a Technical Advisory Committee and be observant of the open meeting law

cc':

CAO

County Counsel

HSA Administration

Environmental Health

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. in witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 1 of 1

by Alicia Mauriello Deputy Clerk, on May, 28, 1999.



County of Santa Cruz

~~249~~

HEALTH SERVICES AGENCY

~~312~~

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 950604073
(831) 454-2022 FAX: (831) 4543128 TDD: (831) 4544123

ENVIRONMENTAL HEALTH

May 17, 1999

AGENDA: May 25, 1999

BOARD OF SUPERVISORS

County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: TECHNICAL ADVISORY COMMITTEE FOR ONSITE SEWAGE DISPOSAL

Dear Members of the Board:

On May 4, 1999, your Board adopted the report and recommendations of the Environmental Health Services Task Force on the County's sewage disposal program. One of the adopted recommendations was that the Environmental Health Services (EHS), in conjunction with the State Regional Water Quality Control Board (RWQCB), develop a proposal for a broad based Technical Advisory Committee (TAC) for the purpose of providing advice to EHS on the sewage disposal program. In adopting the recommendation, your Board directed that a report be submitted prior to the first meeting of the TAC, to include membership categories, the charges to the TAC, and the time frame for the various tasks of the TAC. This report is submitted pursuant to that directive.

CHARGES TO THE TAC

Following are the charges to the TAC as approved when your Board adopted the Task Force report on May 4. The charges, all of which are to be pursued in concert with HSA/EHS staff, include estimated target dates for completion.

1. Review of the Repair Standards, including trench depth and the 100 % expansion rule for repairs and upgrades (Aug. 1999 for trench depth and 100 % expansion; Jan. 2000 for remaining areas);
2. Identify internal conflicts within the Sewage Disposal Ordinance and propose corrections to the HSA Administrator for forwarding to the Board (Jan. 2000);
3. Discussion of proposed procedural changes before they are implemented (ongoing);

4. Consideration of the accuracy and relevance of existing data and consider the possibility of seeking additional data related to the need for winter water table testing and methods for updating the data base (Dec. 1999);
5. Establish an ongoing process and method for reviewing new and emerging onsite sewage disposal technology (Oct. 1999);
6. Review the current appeals process to determine if it is appropriate to expand the scope of the process to technical issues and make a recommendation to the HSA Administrator for forwarding to the Board (Feb. 2000).

EHS also proposes to bring the Customer Bill of Rights and Customer Satisfaction Survey to the TAC after some initial experience in their use has been obtained by EHS. Your Board approved implementation of these two recommendations of the Task Force by June 1, which is prior to the time of the first proposed TAC meeting.

CATEGORIES OF MEMBERSHIP

In order to provide the appropriate and needed level of technical advice to EHS, the members of the TAC each should have experience and knowledge in the area of onsite sewage disposal technology. The members should also represent groups that have frequent interaction with EHS on sewage disposal related matters. It is proposed that the following groups be represented on the TAC:

<u>Number</u>	<u>Category</u>
2	Sewage contractor
1	Sewage consultant-Reg. EH Specialist
1	Sewage consultant-Registered Geologist
1	Sewage consultant-Registered Civil Engineer
1	Realtor
1	Environmental interests
1	Water supply agency representative
1	Reg. Water Quality Control Board representative
4	EHS Director and staff
1	HSA Representative
<u>Total</u>	
14	

The members would serve on the TAC for as long as their interests and other commitments would allow.

MEETING TIME FRAMES

The first meeting of the TAC has been preliminarily scheduled for June 10, 1999. A draft agenda for the first meeting is attached. The TAC will determine, by consensus, their own organization,

structure, and meeting frequency and location. In the critical first three months of operation, frequent meetings (1-2 monthly) are anticipated. Meeting frequency might decrease as the initial charges of the TAC are completed. EHS proposes that the TAC be an ongoing and permanent advisory group to the sewage disposal program after the completion of the charges given to it by the Board, with meetings quarterly or more frequently if needed.

It is RECOMMENDED that your Board accept this report on the formation of a Technical Advisory Committee for onsite sewage disposal.

Very truly yours,

Charles Moody

Charles M. Moody by dh
Health Services Agency Administrator

Diane Evans

Diane Evans, REHS
Environmental Health Director

Attachment

RECOMMENDED

Susan A. Mauriello

Susan A. Mauriello
County Administrative Officer

cc: CAO

HSA Administration
Environmental Health

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Draft
Santa Cruz County
On-site Sewage Disposal
Technical Advisory Committee
Meeting Agenda for June 10, 1999, 4-6 PM.

1. Welcome and Introductions.

2. Organization:

- A. Conduct of meetings.
- B. Review of charges from the Board of Supervisors: *
 - 1. Review of Repair Standards with reference to:
 - a. Trench Depth.
 - b. 100% expansion rule.
 - c. Remaining areas.
 - 2. Identify conflicts within the Sewage Disposal Ordinance, & propose corrections
 - 3. Proposed procedural changes.
 - 4. Winter Water Test: data accuracy & relevance of existing data.
 - 5. Process for review of new and emerging technology.
 - 6. Appeals process review.
 - 7. The role of pumper's reports.
- C. Set meeting frequency, time, & location.

3. Other Business:

- A. Review of CULTEC products (Gill).*
- B. Review of INFILTRATOR products (Gill). *
- C. Review of Loomis brand fiberglass septic tanks (Gill).*
- D. Expansion/replacement area requirements.*
- E. Trench depth requirements for repairs.*
- F. Permit process flow chart (Rohrbough).*
- G. TAC members suggest specific items for review.

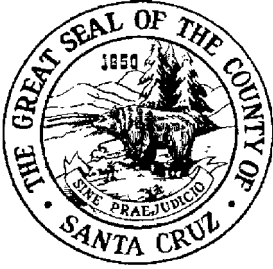
4. Open forum.

5. Agenda Items for Next Meeting.

- A. Proposed date of next meeting: June 24, 1999.

6. Adjournment.

*Material included in agenda packet



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604068
(831) 454-2040 FAX: (831) 454-2115

DWIGHT L. HERR, COUNTY COUNSEL
CHIEF ASSISTANTS
Deborah Steen
Samuel Torres, Jr.

Assistants
Harry A. Oberhelman III
Marie Costa
Jane M. Scott
Rahn Garcia
Tamyra Rice
Pamela Fyfe
Ellen Aldridge
Kim Baskett
Lee Gulliver
Dana McRae

June 2, 1999

Agenda: June 8, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: APPLICATION OF THE BROWN ACT TO THE TECHNICAL ADVISORY COMMITTEE FOR ONSITE SEWAGE DISPOSAL

Dear Members of the Board:

On May 25, 1999, your Board directed this Office to examine whether the Technical Advisory Committee for Onsite Sewage Disposal (hereinafter referred to as the "Committee"), proposed by the Health Services Agency Administrator would be subject to the open meeting provisions of the Brown Act. It is the opinion of this Office that the Brown Act would be applicable to this Committee if it functions in the manner approved by your Board on May 4, 1999. The Brown Act would only not be applicable if the proposed Committee were restructured to delete any functions and responsibilities that the Committee would have for making recommendations or otherwise serving in an advisory capacity to your Board and the Committee were solely advisory to EHS.

THE BROWN ACT

Legislative bodies in general must comply with the open meeting requirements of the Brown Act (Government Code Section 54950 et seq.) For the purposes of the Act, advisory bodies are included with the definition of a "legislative body". The definition of

legislative body was revised in 1993 (see Stats. 1993, Ch. 1138) and 1994 (see Stats. 1994, Ch. 1134) and currently reads, in pertinent part, as follows:

As used in this chapter, “legislative body” means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter. (Government Code Section 54952.)

The Brown Act contemplates that many legislative bodies such as your Board, will establish “advisory committees” to assist with “examination of facts and data,” and that the mechanisms by which such advisory bodies are created will be equally varied. In Sacramento Newspaper Guild v. Sacramento County Bd. of Supervisors (1968) 263 Cal.App.2d 41, at p.48-49, the Court considered the legislative intent behind the inclusion of advisory bodies within the Act’s definition of “legislative body”:

Section 54952 defines the ‘legislative body’ of a local agency to include its committees. Boards of supervisors have investigatory powers which they may delegate to committees, which in turn may ‘send for persons and papers.’ (Gov.Code, ss 25 170--25 17 1.) Without troubling the lexicographers, one recognizes a committee as a subordinate body charged with investigating, considering and reporting to the parent body upon a particular subject. Normally, committees investigate, consider and report, leaving the parent body to act. By the specific inclusion of committees and their meetings, the

Brown Act demonstrates its general application to collective investigatory and consideration activity stopping short of official action.

The Courts have given Section 94952 and its definition of “legislative body” a broad construction to prevent evasion of the Act’s provisions. (see Joiner v. City of Sebastopol, supra, 125 Cal.App.3d at p. 805, fn. 5.)

APPLICATION OF THE BROWN ACT TO THE COMMITTEE

As originally proposed, the Committee would be appointed by the Health Services Agency Administrator and would serve in an advisory capacity to EHS. However, the Committee has also been delegated other responsibilities as well. As originally proposed in the report of the Environmental Health Services Task Force and approved by your Board on May 4th, the Committee’s charges were to include a review and preparation of recommendations concerning repair standards, internal conflicts within the County’s Sewage Disposal Ordinance, winter water table testing data, emerging onsite sewage disposal technology, and appeals involving technical issues. These recommendations were scheduled to be forwarded to your Board by the Health Services Agency Administrator over the course of the next 18 months.

Notwithstanding the actual establishment of the Committee by the Health Services Agency Administrator or the Committee’s principal role in advising EHS, the Committee would also serve in an advisory capacity to your Board. Your Board established the charges of the Committee when it took formal action to accept the report of the Environmental Health Services Task Force. Furthermore, by establishing a schedule for having the Committee’s recommendations forwarded to your Board, the Committee would function as an advisory body to your Board. Because your Board took formal action to adopt the Committee’s charges, and based on the Committee’s advisory relationship with your Board, it would properly be treated as subject to the provisions of the Brown Act. The Brown Act would require that meetings of the Committee be open to the public and be held pursuant to a written agenda which is provided to members and posted at least 72 hours in advance for a regular meeting and at least 24 hours in advance for a special meeting.

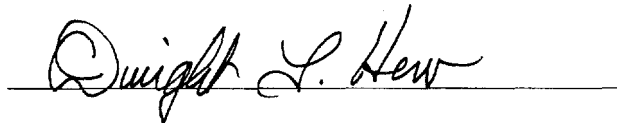
If the Committee were restructured to delete all of its functions and responsibilities for providing advice to your Board and solely advise EHS, it would not be subject to the Brown Act

IT IS THEREFORE RECOMMENDED that your Board consider this report, and take one of the following actions.

1. Declare that the Committee should follow the provisions of the Brown Act and function in the manner previously approved by the Board; or
2. Rescind the Board's previous actions regarding the formation and functioning of the Committee, and instead direct EHS to respond to the Board's prior directions regarding the review of the sewage disposal program and the sewage disposal ordinance utilizing a staff task force and consultation with community members with relevant expertise and with staff of the Regional Water Quality Control Board.

Very truly yours,

DWIGHT L. HERR, COUNTY COUNSEL



RECOMMENDED:


SUSAN A. MAURIELLO
County Administrative Officer

cc: CAO
HSA Administration
Environmental Health