



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO/Clerk of the Board
Department No.: 012
For Agenda Of: February 3, 2015
Placement: Departmental
Estimated Time: 15 Min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info: Mona Miyasato, County Executive Officer, 568-3404
Mike Allen, Clerk of the Board, 568-2245

SUBJECT: Ex Parte Disclosures for Quasi-judicial hearings

County Counsel Concurrence

As to form: Yes

Other Concurrence: Select_Other

As to form: NA

Auditor-Controller Concurrence

As to form: NA

Recommended Actions:

1. Receive and file a report on options for ex parte disclosures at quasi-judicial hearings;
2. Direct staff on the Board's preferences for procedures for the distribution of e-mail and other written communications and disclosure of content of communications with individual Board members;
3. Determine that these activities are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline section 15378(b)(5), since this is an administrative activity of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

This item is at the request of multiple Supervisors to streamline procedures for disclosure of ex parte communications when the Board is acting in a quasi-judicial capacity at hearings. The Board may consider adopting uniform procedures for distributing to the whole Board and the public written and oral communications with individual Supervisors. This could include forwarding all e-mails and letters to the Clerk of the Board and reporting specifics of individual communications.

Background:

The Board acts in a quasi-judicial capacity when the Board considers land use permit applications and appeals. During these types of hearings, the Board complies with due process requirements by following hearing procedures, including providing ex parte communication disclosures. Ex parte communications include written communications and oral communications by phone or in-person meetings. Disclosing ex parte communications ensures that each decision maker is considering the same evidence. At present, each Board member is responsible for tracking and reporting ex parte communications, and Board members do this in their own manner. This item is before your Board to consider streamlining the procedures for ex parte communications.

The Board could elect to maintain the current practice of individual Board members tracking and reporting all ex parte communications or could elect to refrain altogether from ex parte communications. However, if your Board would like to establish uniform procedures, your Board could consider the following:

1. Written Ex Parte Communications: The Board could forward all written ex parte communications, including e-mails and letters, to the Clerk of the Board, who would then post them to the County website link for a particular hearing item. This would make them part of the public record.
2. All other Ex Parte Communications: The Board could consider a standard reporting procedure that includes such information as the date of the communication, identity of the person initiating and the person receiving the communication, and a description of the content of the communication.

Should the Board establish these procedures, staff would post all written ex parte communications on the County website as an attachment to the Board Letter.

Performance Measure:

NA

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Key Contract Risks:

NA

Staffing Impacts: Posting of ex parte communications would require some additional staff time of the Clerk of the Board's office.

Legal Positions:

FTEs:

Special Instructions:

NA

Attachments:

None

Authored by:

Michael Allen, Clerk of the Board
568-2245