

**BOARD OF SUPERVISORS - STANDING COMMITTEES**  
**“PUBLIC ACCESS - PUBLIC INTEREST”**

March 20, 2013

**SUMMARY**

On January 8, 2013 at its annual formation meeting, the Mendocino County Board of Supervisors (BOS) acted on the County Chief Executive Officer's (CEO) recommendation to establish, but not activate the BOS Standing Committees.

The existing Standing Committees correspond to the basic categories of County business: (1) Health and Human Services, (2) Criminal Justice, (3) Public Resources and (4) General Government/Personnel-Legislative. By addressing specific issues through the Standing Committees in accordance with the provisions of the County Procedures and the Brown Act, the public is afforded the opportunity to be better informed and to participate more effectively in the discussion and decision making process of the BOS. The Standing Committees have a formal process for documentation, tracking progress and follow-up of the Committee's issues and tasks.

Instead, the BOS voted to continue last year's process of relying on Ad Hoc Committees (AHC). AHCs are established by the BOS to address specific County issues requiring active participation, research and discussion by representatives of the BOS. Supervisors may be appointed to AHCs based on interest, knowledge or ability. The work of an AHC often occurs behind the scenes. It is not noticed or agendaized in accordance with the provisions of the Brown Act.

The BOS's mission statement states “The Mendocino County Board of Supervisor's mission is to create and maintain a responsive and responsible government that enhances the quality of life of the people of Mendocino County.” In the conscientious implementation of their mission all practicable efforts must be made to inform the public and encourage public comment and participation at open, publicly noticed and agendaized BOS meetings. The Grand Jury (GJ) recommends that specific issues or tasks under consideration be assigned to the appropriate Standing Committees with periodic status reports presented at BOS meetings. In cases where an issue is expected to be resolved within the current calendar year and the matter does not fall under the purview of a Standing Committee, the BOS may choose to form an AHC. The GJ recommends that AHCs provide status reports at each regular BOS meeting in compliance with the County's Rules of Procedures. If the matter is of greater complexity, time commitment or general public interest than originally anticipated, it is recommended to transfer the matter to a Standing Committee.

## GLOSSARY

**The Brown Act:** California Government Code §54950-54962. Originally enacted in 1953 the Brown Act codifies the State’s position that meetings of public bodies must be “open and public,” actions may not be secret and action taken in violation of open meetings laws may be voided. Under the Brown Act an agency must post notice and an agenda at least three days before a regular meeting. Standing Committees regardless of the number of members are covered by the provisions of the Brown Act. AHCs consisting of less than a BOS quorum are not covered by the Brown Act.

**The County Rules of Procedure:** *Rules of Procedure: Board of Supervisors, County of Mendocino, State of California. Adopted January 4, 2011; Resolution N. 11-004 (Rules).* The Rules establish the working procedures of the BOS meetings and legislative activities. The Rules of Procedure are available on [www.co.mendocino.ca.us/bos](http://www.co.mendocino.ca.us/bos)

**Standing Committees:** Rule 30 of Rules of Procedure. Standing Committees are appointed by the Chair within 10 days of the organizational meeting each January. Two Board members are appointed to each committee. Standing committees are subject to the Brown Act.

**Ad Hoc Committees:** Rule 31 of the Rules of Procedure. Ad Hoc Committees may be formed by Chair directive or Board action. Status reports from AHCs shall be made to the Board at each regular meeting. AHCs are “encouraged” to conclude their business at the end of each calendar year but may be extended with Board approval. The Clerk of the Board maintains a current index of the AHCs and their purpose. Ad Hoc Committees are not subject to the provisions of the Brown Act including a public notice, agenda and minutes.

## BACKGROUND

Mendocino County continues to experience a financial situation that challenges the County’s ability to maintain and deliver mandated and other important services to its citizens. These challenges increase the need for County residents to be informed regarding the issues and difficult decisions falling within the BOS’s jurisdiction. The Standing Committees support informed, effective citizen participation, governmental long-termed planning, continuity, openness and transparency. Standing Committees provide the best existing opportunity for reasonable access to information and the decision making process of County government, thus supporting meaningful citizen participation. In 2011 and 2012 no Standing Committees were convened. On January 8, 2013, the Chairman of the BOS assigned members to each Standing Committee. A discussion ensued regarding reactivating the Standing Committees. However, the BOS at the CEO’s recommendation chose to continue with the AHCs as the primary committee format. They agreed to keep the Standing Committees assigned, but dormant until activated by an action of the BOS. The GJ decided to investigate the benefits and limitations of the Ad Hoc and Standing Committee formats and make recommendations.

## **APPROACH**

At least two members of the GJ are assigned to attend all noticed BOS meetings and were present on January 8, 2013 for the discussion regarding the Standing Committees and AHCs. GJ reviewed the County Procedures, the Brown Act Provisions and various links on the County website to access information regarding committee assignments, agendas and minutes of the Standing Committees and AHCs. Two current Supervisors were interviewed. A video of the January 8, 2013 BOS meeting was reviewed and a web search was done of other counties' current use of Ad Hoc committees.

## **DISCUSSION**

Participation on assigned Standing Committees is one of the duties of an elected Supervisor. No Standing Committee meetings have been convened for the previous two years. The discussions, deliberations, findings, recommendations or actions of the AHCs are not accessible to interested individuals and the general public. The BOS on the CEO's recommendation, decided to continue utilizing AHCs rather than Standing Committees.

The Brown Act has recently been under threat, but remains the current California law. It is vitally important to all citizens because it ensures that governmental bodies covered by its provisions provide notice and a public venue for the discussion and deliberation of the agency's business. The business of the BOS is the business of the public. By addressing complex issues through Standing Committees that are covered by the Brown Act, the opportunity for public comment and participation and responsive governance is maximized. With AHCs the opportunities for long-term planning, continuity and documentation are minimized or eliminated. AHCs circumvent the Brown Act at the risk of reducing public awareness, participation as well as documentation, regular status reporting, continuity and follow-up.

On December 18, 2012 a list of Current/Active AHCs was prepared and distributed at the year-end BOS meeting. It listed six active AHCs, including two formed in 2010. The business of three AHCs was deemed concluded and those committees dissolved. As reported in the Ukiah Daily Journal, a local business owner spoke convincingly at the January 8, 2012 meeting stating "Ad Hocs don't serve the public." He hoped the BOS would return to the Standing Committee process "for the public's interest, for the public good."

Ad Hocs should be investigative, issue-specific and short term in duration. One example of the problems with AHCs occurred at the October 15, 2012 BOS meeting. The BOS adopted a resolution establishing an AHC to participate in planning a proposed Mental Health Court. Two Supervisors had been unofficially participating in the coalition for some time. The Supervisors frequently reported on the group's discussions and progress informally during the Supervisor's update. However, the update portion of the BOS meeting is usually scheduled near the end of the open meeting, precluding easy accessibility for the public to know of the Supervisor's participation, opinions or recommendations. Additionally, the Mental Health Court AHC was never added to the

official list of AHCs. Therefore, the average citizen is almost completely unaware of the Supervisor's interest and participation in Mental Health Court planning, further limiting the ability to provide public comment. Had the Mental Health Court been assigned to a Standing Committee, either Health and Human Services or Criminal Justice, under the provisions of the Brown Act, the public would have access to committee minutes, issue status, and the Supervisor's participation. The status reports would be an item on the agenda, providing the opportunity for public comment. There is an additional concern regarding adequate follow up on matters handled by a dissolved AHC. This situation occurred with the Sheriff's Office Efficiency Report. The study was completed, the report received and the AHC dissolved. Neither the public nor the BOS currently has a venue to address the status of the responses to the recommendations and the Sheriff's efforts to improve departmental efficiency.

The primary reasons, stated or implied, for not implementing active Standing Committees were (1) No pressing need. Standing Committees were not convened in 2011 or 2012, (2) Too much work. Compliance with the provisions of the Brown Act places an extra burden on the already short-staffed Executive Office and (3) the Ad Hoc method appears to be working for the Supervisors. The GJ believes the provisions of the Brown Act and the County Rules of Procedure should not be circumvented. The Standing Committees should be activated and utilized.

The County continues to confront a difficult fiscal situation. The BOS makes tough decisions impacting the best way to fulfill its duties as elected officials. Numerous labor contracts will be renegotiated this year. Mental health services may be contracted to non-County service providers. Changes in sentencing, probation, parole and County Jail populations continue to affect the courts and criminal justice system. These and other pressing issues deserve and demand the opportunity for an informed public to access an open, formal forum for information and public expression. Utilizing the Standing Committees as they currently exist is one simple, direct method the Supervisors can use to increase long-term planning, continuity and transparency.

## **FINDINGS**

- F1. At the CEO's recommendation, the BOS Standing Committee assignments were made as required by the County Procedures. However, none of the Standing Committees was activated and the use of Ad Hoc Committees was continued.
- F2. Mendocino County use of Ad Hoc Committees does not conform to the accepted practices of other counties. Ad Hoc Committees should be investigative, issue-specific and of short term duration.
- F3. The exclusive use of Ad Hoc Committees is not consistent with the intent of the Brown Act.
- F4. Ad Hoc Committees do not afford the public sufficient notice or opportunity for meaningful participation in County government. Ad Hoc Committees are not reporting in compliance with the County Rules of Procedure (Rule 31).

- F5 Ad Hoc Committees limit long-term planning and continuity. Adequate record keeping, including written and published meeting minutes, is not required or currently available.

## RECOMMENDATIONS

- R1. The Standing Committees be activated, assigned all appropriate issues requiring special BOS attention, and used as the primary vehicle for policy guidance and direction to the BOS. (F1, F2, F4 & F5)
- R2. The Ad Hoc Committee issue status reports at each regular BOS meeting in accordance with the County Rules of Procedure #31. ( F4)
- R3. Ad Hoc Committees only be formed to investigate single issues anticipated for resolution within the current calendar year. (F2, F4 & F5)
- R4. The Executive Office post and update a list of the current Ad Hoc Committees on the BOS website. (F4)

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the following response is *required*:

- Board of Supervisors, Mendocino County: respond to F1- F5 and R1- R3 within 90 days.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

The Grand Jury *requests* the following individual to respond:

- Carmel Angelo, Chief Executive Officer Mendocino County: respond to F1- F5 and R1- R4 within 60 days.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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## APPENDIX

- Current Committee and Commission Assignments 2013 – Attachment #1
- Ad Hoc Committees 2012 - Attachment #2



**MENDOCINO COUNTY BOARD OF SUPERVISORS**

**2012 SPECIAL ASSIGNMENTS ROSTER**

**DRAFT**

**BOARD CHAIR – HAMBURG ♦ BOARD VICE-CHAIR – PINCHES**

**STANDING BOARD COMMITTEE ASSIGNMENTS FOR 2013**  
(**BOLDFACE TEXT DENOTES THE CHAIR OF THE STANDING COMMITTEE**)

<b>CRIMINAL JUSTICE</b>	<b>GENERAL GOVERNMENT PERSONNEL/LEGISLATIVE</b>
<ul style="list-style-type: none"> <li>■ MEMBERS: <b>JOHN PINCHES &amp; JOHN MCCOWEN</b></li> <li>■ MEETS: <b>TBD*</b></li> </ul>	<ul style="list-style-type: none"> <li>■ MEMBERS: <b>DAN GJERDE &amp; CARRE BROWN</b></li> <li>■ MEETS: <b>TBD*</b></li> </ul>
<b>HEALTH &amp; HUMAN SERVICES</b>	<b>PUBLIC RESOURCES</b>
<ul style="list-style-type: none"> <li>■ MEMBERS: <b>DAN GJERDE &amp; JOHN MCCOWEN</b></li> <li>■ MEETS: <b>TBD*</b></li> </ul>	<ul style="list-style-type: none"> <li>■ MEMBERS: <b>JOHN PINCHES &amp; CARRE BROWN</b></li> <li>■ MEETS: <b>TBD*</b></li> </ul>

*\*Please see separate Standing Board Committee Master Calendar for variations to the meeting schedule*

**APPOINTMENTS TO OTHER BOARDS AND SPECIAL ASSIGNMENTS**

AREA AGENCY ON AGING (JPA GOVERNING BOARD)	BROWN
CALIFORNIA STATE ASSOCIATION OF COUNTIES (CSAC)	BROWN/GJERDE (BOS ACTION 9/25/12)
CASPAR TRANSFER STATION COORDINATING COMMITTEE	HAMBURG/GJERDE
CSAC COASTAL COUNTIES REGIONAL ASSOCIATION	HAMBURG/GJERDE
ECONOMIC DEVELOPMENT & FINANCE CORP. (EDFC)	HAMBURG/GJERDE
EEL-RUSSIAN RIVER COMMISSION	BROWN/MCCOWEN (ALTERNATE)
FIRST 5 MENDOCINO	HAMBURG
FISHNET 4C (APPOINTEE & CHAIRMAN)	BROWN/MCCOWEN
INDIAN GAMING LOCAL COMMUNITY BENEFIT COMM.	HAMBURG/MCCOWEN
INLAND WATER AND POWER COMMISSION (IWPC)	BROWN/HAMBURG (ALTERNATE)
LOCAL AGENCY FORMATION COMMISSION (LAFCO)	HAMBURG/BROWN/MCCOWEN (ALTERNATE)
MENDOCINO COUNCIL OF GOVERNMENTS (MCOG)	PINCHES/GJERDE
MENDOCINO COUNTY ACHIEVE	GJERDE
MENDOCINO COUNTY RESOURCE ADVISORY COMM. (RAC)	MCCOWEN
MENDOCINO SOLID WASTE MGMT. AUTH. (MSWMA)	PINCHES/HAMBURG
MENDOCINO TRANSIT AUTHORITY (MTA)	GJERDE
MENDOCINO WATER CONSERVATION & FISHERY ADV. BOARD (FIRST DISTRICT SUPERVISOR APPOINTMENT ONLY)	BROWN
MENTAL HEALTH BOARD (MHB)	HAMBURG
NATIONAL ASSOCIATION OF COUNTIES (NACO)	GJERDE
NORTH COAST INTEGRATED REGIONAL WATER MANAGEMENT PLAN POLICY/TECHNICAL REVIEW PANEL ALONG WITH 5-COUNTY TRANSBOUNDARY ESU	MCCOWEN/GJERDE/BROWN (ALTERNATE)
NORTH COAST LOCAL AGENCY COASTAL COORDINATION COMMITTEE (MLPA/MOU)	GJERDE/HAMBURG
NORTH COAST RESOURCE CONSERVATION & DEVELOPMENT AREA COUNCIL	STAFF (CEO)/BROWN (ALTERNATE)
POLICY COUNCIL ON CHILDREN AND YOUTH	BROWN
REMOTE AREA NETWORK (RAN-MCSO)	PINCHES
WORKFORCE INVESTMENT BOARD (WIB)	HAMBURG

**ADDITIONAL BOARD APPOINTMENTS**

MENDOCINO COUNTY EMPLOYEES RETIREMENT BOARD	MCCOWEN
NORTH COAST RAILROAD AUTHORITY	MCCOWEN
PUBLIC POLICY FACILITATING COMMITTEE	BROWN

**CHAIR ASSIGNMENTS**

- Member of North Coast Air Basin Control Council
- Member of Domestic Violence Council
- Member of Juvenile Justice Coordinating Council

Adopted – January 8, 2013



**MENDOCINO COUNTY BOARD OF SUPERVISORS  
AD HOC COMMITTEE - TOPICAL INDEX**

DATE REFERRED	CURRENT / ACTIVE AD HOC COMMITTEES	MEMBERS	CEO/Co.Co. RESOURCE	STATUS
<b>2010</b>				
01/12/10	Formation of a Board Ad Hoc Committee Regarding the Draft Tax Sharing Agreement Between the City of Ukiah and the County of Mendocino (Initially formed on 04/21/09) (Active per BOS action on 12/14/10)(Active per BOS action on 2/14/12)	McCowen/Smith		Active
09/28/10	Formation of Board Ad Hoc Committee to review and negotiate amendments to the intergovernmental agreement between the County of Mendocino and the Coyote Valley Band of Pomo Indians (Active per BOS action on 12/14/10) (Active per BOS action on 2/14/12)	Brown/McCowan		Active
<b>2011</b>				
04/26/11	Refer matter to Ad Hoc Committee consisting of Supervisor Brown and Supervisor McCowen for the purpose of engaging in negotiations with the Pinoleville Pomo Nation regarding the proposed casino and gaming venture. Send copy of Minute Order approving this Committee to County Counsel, Supervisor Brown and Supervisor McCowen (Active per BOS action on 2/14/12)	Brown/McCowan		Active
<b>2012</b>				
03/13/12	The Board of Supervisors direct staff to research and return with recommendations for full or partial waiver of building fees for projects that meet defined job creation criteria, working with an ad hoc committee consisting of Supervisors Brown and McCowen.	Brown/McCowan		Active
09/25/12	The Board of Supervisors directs staff to continue the development of the Legislative Platform for 2013, using the same process that was applied in the previous year (as outlined on page two of the staff report provided); and further, that Supervisors Hamburg and Brown participate in the development of the Platform, as they did in 2012.	Brown/Hamburg		Active
11/6/12	Upon motion by Supervisor Smith seconded by Supervisor Brown, and carried unanimously, IT IS ORDERED that the Board of Supervisors appoints an ad hoc committee consisting of Supervisor Pinches and Supervisor McCowen to discuss and research a possible revision of the Mendocino County Veterans Buildings Rules and Regulations in particular to use and fees.	Pinches/McCowan	Active	11/6/12

(Refer to Board Rules of Procedure - Rule No. 31 Regarding Ad Hoc Committees)

File: Bos/standing committees/ad hoc/ad-hoc index  
(Upon Updating-Print and Distribute (15 sets)  BOS  CEO  CoCo  Staff  Master Board Assignment Binder)

Updated: December 18, 2012

Attachment #2