RESOLUTION - ACTION REQUESTED 2014-23

MEETING: January 14, 2014

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Resolution Initiating Amendments to Mariposa County Code Title 2

RECOMMENDATION AND JUSTIFICATION:
Adopt a resolution of intention to initiate amendments to Mariposa County Code Title 2: 1) Chapter 2.50 Mariposa County Planning Agency, to amend procedures for Planning Advisory Committees and to remove references to the Building Department, 2) Chapter 2.39 Mariposa County Building Department, to establish the Building Department and its functions and duties, and 3) Section 2.90.020 Membership (Historic Sites and Records Preservation Commission), to make member removal provisions consistent.

There is a benefit to making County Code provisions for advisory committees internally consistent regarding both appointment and removal provisions.

Amendments are needed to Chapter 2.50 to remove the building department from the administrative responsibilities of the planning department. The two departments were severed and have functioned independently since 1999, as a result of Board of Supervisors Resolution No. 99-182.

It is appropriate to establish a new Chapter 2.39 to establish the Building Department as a separate department, and to establish its functions and duties.

Subsections 2.90.020.B. and 2.90.020.C. establishing member removal provisions for the Historic Sites and Records Preservation Commission are inconsistent with each other.

If adopted as proposed, the amendments initiated by Resolution No. 2011-491 will be abandoned.

Amendments will undergo a staff review and public hearing process if initiated.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
Resolution No 2011-491 was adopted by the Board of Supervisors on the 4th day of October 2011, initiating an amendment to Title 2, Section 2.50.100. However, there were concerns expressed through a preliminary review process involving Planning Advisory Committee members and the amendment was never processed as initiated by the Board of Supervisors.
ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not initiate amendments to Title 2. Amendments will not be processed, and text in
County Code, Title 2 will remain as is.

ATTACHMENTS:
140114 BOS Draft Resolution of Intention to Initiate Amendments (DOC)
140114 Amended Chapter 2.50 Planning Agency (DOC)
140114 New Chapter 2.39 Building Department (DOC)
140114 Amended Section 2.90.020 HSRPC (DOC)

CAO RECOMMENDATION
Requested Action Recommended

[Signature]
Rick Benson, County Administrator 1/14/2014

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Merlin Jones, District II Supervisor
SECONDER: Lee Stetson, District I Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 2014-23

A resolution of intention to initiate amendments to Mariposa County Code Title 2: 1) Chapter 2.50 Mariposa County Planning Agency, to amend procedures for Planning Advisory Committees and to remove references to the Building Department, 2) Chapter 2.39 Mariposa County Building Department, to establish the Building Department and its functions and duties, and 3) Section 2.90.020 Membership (Historic Sites and Records Preservation Commission), to make member removal provisions consistent

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 2, Chapter 2.50 establishes provisions for the Mariposa County Planning Agency; and

WHEREAS, Section 2.50.100 is entitled Planning Advisory Committees Established; and

WHEREAS, Section 2.50.100 provides enabling language for committee members to be appointed and reappointed by the Board of Supervisors; and

WHEREAS, Section 2.50.100 is silent regarding the removal of committee members; and

WHEREAS, other Mariposa County advisory committees’ ordinances and resolutions contain explicit provisions for removal of members, including County Code Section 2.110.050 for the Agricultural Advisory Committee, County Code Section 2.90.020 for the Historic Sites and Records Preservation Commission, and Resolution No. 93-387 establishing the Airport Advisory Committee; and

WHEREAS, California Government Code distinguishes and provide sufficient authority for local legislative bodies to remove, as well as appoint, their advisory committee members; and

WHEREAS, there is a benefit to making County Code provisions for advisory committees internally consistent regarding both appointment and removal provisions; and

WHEREAS, there is a benefit to making County Code provisions for advisory committees consistent with California Government Code; and
WHEREAS, Resolution No 2011-491 was adopted by the Board of Supervisors on the 4th day of October 2011, initiating an amendment to Title 2, Section 2.50.100. However, there were concerns expressed through a preliminary review process involving Planning Advisory Committee members and the amendment was never processed as initiated by the Board of Supervisors; and

WHEREAS, there is still a need to amend the text in Chapter 2.50 and amended text is presented to address the concerns expressed by Planning Advisory Committee members; and

WHEREAS, other amendments are needed to Chapter 2.50 to remove the building department from the administrative responsibilities of the planning department. The two departments were severed and have functioned independently since 1999, as a result of Board of Supervisors Resolution No. 99-182; and

WHEREAS, it is appropriate to establish a new Chapter 2.39 to establish the building department as a separate department, and to establish its functions and duties; and

WHEREAS, Title 2, Chapter 2.90 establishes provisions for the Historic Sites and Records Preservation Commission; and

WHEREAS, Section 2.90.020 is entitled Membership; and

WHEREAS, subsections 2.90.020.B. and 2.90.020.C. establishing member removal provisions are inconsistent with each other; and

WHEREAS, amendments are proposed to subsections 2.90.020.B. and 2.90.020.C. for internal consistency.

NOW BE IT THEREFORE RESOLVED THAT, the Board of Supervisors of the County of Mariposa does hereby initiate amendments to Chapter 2.50 of Mariposa County Code.

BE IT THEREFORE FURTHER RESOLVED THAT, the proposed amendment to Section 2.50.100 for Planning Advisory Committees is worded to be similar to provisions contained in Mariposa County Code for the Agricultural Advisory Committee and the Historic Sites and Records Preservation Commission, and provisions established by resolution for the Airport Advisory Committee.

BE IT THEREFORE FURTHER RESOLVED THAT, the proposed amendments to Chapter 2.50 are necessary to reflect the current functions of the planning departments and its duties and responsibilities.
BE IT THEREFORE FURTHER RESOLVED THAT, it is appropriate to establish the building department as a separate and independent department pursuant to Board of Supervisors Resolution No. 99-182.

BE IT THEREFORE FURTHER RESOLVED THAT, it is appropriate to amend Section 2.90.020 for internal consistency.

BE IT THEREFORE FURTHER RESOLVED THAT, the amendments to Chapter 2.50 and Section 2.90.020 of the Mariposa County Code will read as shown in Attachments 1 and 3 (new text shown in italicized underlined font and deleted text shown in double strikethrough font).

BE IT THEREFORE FURTHER RESOLVED THAT, the amendments to County Code Title 2, to establish Chapter 2.39 will read as shown in Attachment 2 (all new text).

BE IT THEREFORE FURTHER RESOLVED THAT, all other text in Title 2 of County Code shall remain unchanged.

BE IT THEREFORE FINALLY RESOLVED THAT, based on this action, the amendments initiated by Resolution No. 2011-491 are abandoned.

ON MOTION BY Supervisor Jones, seconded by Supervisor Stetson, this resolution duly passed and adopted this 14th day of January 2014 by the following vote:

AYES: Stetson, Jones, Bibby, Cann, and Carrier

NOES: None

EXCUSED: None

ABSTAIN: None

Kevin Cann, Chairman
Mariposa County Board of Supervisors

ATTEST:
Rene' LaRoche
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
Steven W. Dahlem
County Counsel
ATTACHMENT 1

Amendments to Chapter 2.50

Chapter 2.50

MARIPOSA COUNTY PLANNING AGENCY

Sections:

2.50.010 Creation and composition of the planning agency.
2.50.020 Planning agency functions.
2.50.030 The board of supervisors.
2.50.040 The planning commission.
2.50.050 Planning department established.
2.50.060 The planning and building department.
2.50.070 Director of planning.
2.50.080 Duties of planning director.
2.50.100 Planning advisory committees established.

2.50.010 Creation and composition of the planning agency.
In accordance with government code sections 65100 through 65105, the planning agency of Mariposa County is comprised of the following:
A. The board of supervisors,
B. Planning commission, and the
C. Planning department.

2.50.020 Planning agency functions.
In accordance with the provisions of government code section 65103, the planning agency shall perform the following functions:
A. Prepare, periodically review, and revise, as necessary, the general plan;
B. Implement the general plan through actions including, but not limited to, the administration of area plans, specific plans and zoning and subdivision ordinances;
C. Annually review the capital improvement program of the city or county and the local public works projects of other local agencies for their consistency with the general plan;
D. Endeavor to promote public interest in, comment on, and understanding of the general plan and regulations relating to it;
E. Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally, concerning implementation of the general plan;
F. Promote the coordination of local plans and programs with the plans and programs of other public agencies; and
G. Perform other functions as the legislative body provides, including conducting studies and preparing plans other than those required or authorized by this title.

2.50.030 The board of supervisors.
The board of supervisors, as the legislative body of Mariposa County shall:

A. Exercise the appointing power provided under state law and this code including appointment of the director of planning, the voting members of the planning commission, and such other boards, commissions, committees or advisory groups as may be established in accordance with this code or state law;

B. Adopt a general plan, area plans, and specific plans, regulations and ordinances as required by law and/or are deemed necessary for purposes of conducting a planning program in Mariposa County;

C. Exercise the functions of the “Official Agency” specified in government code section 65401; and

D. Be the final appellant body on all matters as specified in this code with respect to planning matters.

2.50.040 The planning commission.
The planning commission shall:

A. Exercise the powers and duties prescribed by statute and this code except those powers and duties specifically reserved or delegated to other divisions of the planning agency;

B. Initiate the preparation of general plans, area plans, specific plans, regulations, programs and legislation necessary to implement the planning programs of the county;

C. Be generally responsible for advising the legislative body of matters relating to planning, which, in the opinion of the commission, should be studied;

D. Be the advisory agency as designated in Title 16 of this code for the purpose of acting on subdivision proposals;

E. Hear and decide all requests for conditional use permits;

F. Hear and decide all requests for variance permits;

G. Review and act upon all other matters as may be required by this code; and

H. Review the capital improvement program of the county and make recommendations to the board of supervisors with respect to its consistency with the general plan, area plans and specific plans. (Ord. 910 Sec.II, 1997).

2.50.050 Planning department established.
There is hereby created a county department known as the planning department.

2.50.060 The planning and building department functions.
The planning and building department shall:

A. Perform the duties required for the proper preparation and administration of the general plan, area plans and specific plans as provided by statute and county code;

B. Perform the duties required for the proper preparation and administration of the titles specified by this code, including Title 16, Title 17 and Title 18;

C. Perform the duties required for the proper preparation and administration of the Cortese-Knox-Hertzberg Local Government
Reorganization Act of 2000, Government Code Sections 56000 through 57550;

D. Provide administrative support and professional advice to the planning commission and board of supervisors; and

E. Perform special studies and surveys as directed by the board of supervisors.

D. Implement the building permit and inspection function for the county, including:

1. Enforce within the boundaries of the agreed upon line of assessment of the county all the applicable county ordinances relating to the state’s and county’s statutory responsibilities under all of the provisions of the State Housing Law and Earthquake Protection Law, Division 12, Parts 1.5 and 3, Section 19300 and 19992 of the Health and Safety Code of the state as applicable; California Code of Regulations, Title 25, Chapters 1, 3, and 5 as applicable and all other applicable provisions of all future ordinances and laws and amendments thereto relating to building. Such enforcement shall include all of the duties prescribed by those laws, rules and regulations including inspecting buildings and structures to verify that construction or alteration work is being done according to approved plans and in accordance with the provisions of applicable state and local building codes and ordinances, and issue all orders required in enforcement.

2. Issue all permits required to be issued by the county environmental health department in enforcement of the building process. “Permit” means any license, certificate, registration, permit, or any other form of authorization required to be issued by the county, or state if applicable, which deals with construction and building, well and septic permits, and excluding permits issued by other county agencies such as the planning commission, LAFCO, etc.

3. To assist in the implementation of these duties, the building permitting and inspections function of the planning and building department shall consist of a chief building inspector and such other employees as designated by the board of supervisors. The chief building inspector shall be responsible for the application of the Uniform Building Code and other applicable building and grading standards within the county of Mariposa except as otherwise specifically provided by county code, under the general direction of the planning director. (Ord. 910 Sec.II, 1997; Ord. 796 Sec.III, 1991).

2.50.070 Director of planning.
The planning director shall administer the planning and building department. The Mariposa county board of supervisors shall appoint a planning director qualified by training, experience and demonstrated ability to manage the affairs of the planning department. The planning director shall serve at the pleasure of the board of supervisors. (Ord. 910 Sec.II, 1997).

2.50.080 Duties of planning director.
The planning director, as chief administrator of the planning and building department shall:
A. Be responsible for directing, supervising and overseeing the staff activities of the department;
B. Prepare and administer the budget of the department;
C. Advise the board and commission on matters relating to zoning and land use, subdivisions, mining, building codes and other planning matters, and act as approval authority for projects as specified by this code; Conduct investigations, prepare reports and recommendations on matters relating to planning in the county as required by government code section 65400;
D. Conduct investigations, prepare reports and recommendations on matters relating to planning in the county as required by government code section 65400(a);
E. Act as official spokesman for the planning agency and prepare such notices, publications and other materials necessary to assure that the planning agency meets it statutory public information requirements as set forth in government code section 65103;
F. Prepare an annual report for the legislative body as set forth in government code section 65400(b);
G. Act as zoning enforcement officer of the county and take such actions as necessary to assure fair and equal enforcement of the county’s zoning code;
H. Collect and deposit with the Mariposa County Treasurer’s Office, all fees and charges for service by the planning and building department, as set forth by this code;
I. Oversee and administer the county environmental review procedures in accordance with the requirements of Title 14 of the California Code of Regulations and Sections 21000 through 21176 Public Resources Code.
J. Oversee and administer LAFCo, the Local Agency Formation Commission, in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Sections 56000 through 57550 (Ord. 920 Sec.II, 1997; Ord. 910 Sec.II, 1997; Ord. 796 Sec.IV, 1991; Ord. 653 Sec.1, 1986).

2.50.100 Planning Advisory Committees established.
A. The board of supervisors may establish planning advisory committees to recommend actions representing the local community views about planning matters to the planning commission and board of supervisors. The board may also refer other matters of community interests to the planning advisory committee as necessary;
B. Planning advisory committees shall be initiated by resolution of the board. The resolution shall, at a minimum, include:
   1. A purpose for the committee, and
   2. A general mission for the committee’s work, and
   3. The number of members to be appointed to the committee, and
   4. The geographic boundaries of the area in which the committee’s recommendation is to be sought; and
   5. The resolution shall cross-reference the requirement for all planning advisory committees to utilize the standard bylaws approved by the board of supervisors pursuant to this section and submit any proposed modifications meeting committee needs to the board for approval;
C. Citizen advisory committee members shall be appointed by a majority of the board and may be removed by a majority vote of the board. The committee shall be comprised of members who shall be from one of the following groups:

1. Property owners within the planning advisory committee geographic boundaries, or
2. Owners of businesses located within the planning advisory committee geographic boundaries, or
3. Employees of businesses located within the planning advisory committee geographic boundaries, or
4. Electors registered to vote within the planning advisory committee geographic boundaries, or
5. Residents of the area within the planning advisory committee geographic boundaries.

6. The board may appoint non-voting ex-officio members who may provide expertise and guidance associated with special disciplines or organizations affected by the recommendations of the committee.

D. County staff shall provide support resources to the committees, and the planning director shall be empowered to call upon appropriate departments to provide information required to assist the committee in carrying out its board-designated responsibilities;

E. Committee members shall be appointed to staggered two-year terms and may be reappointed by the board without term limitations. All terms shall expire upon the last day of February of the appropriate year.

1. For committees formed after the effective date of this ordinance, or any committee existing upon the effective date of this section in which all committee members’ terms expire on the same date, when the committee appointments are made, half of the committee members plus one shall be appointed to a first term of two years, the remaining committee members shall be appointed to a one year term. The selection of committee members to one year or two year terms shall be by lot drawn by the chair of the board of supervisors.

2. For committees in existence upon the effective date of this ordinance, all terms expiring during 2002 shall expire upon June 30, 2002. New terms and reappointments of these seats shall expire on the last day of February, 2004. Subsection E2 expires and is repealed on March 1, 2004.

3. For committees in existence upon the effective date of this section, all terms shall be changed to expire on the last day of February in the year the existing term of appointment expires, beginning with terms expiring in 2003. Subsection E3 expires and is repealed on March 1, 2003.

F. Appointment of officers:
1. At its first meeting, and at its first meeting of each subsequent year, the committee shall elect a chair and vice-chair to serve a term of one year until the successor of each is appointed and qualified.

2. The chair shall preside at all meetings of the committee and shall perform all the duties necessary or incidental to his office, including approval of the agenda topics for the meeting.
3. The vice-chair is chair in the absence or inability of the chair to act.

4. a. At its first meeting, and its first meeting of each subsequent year, the committee shall determine whether it wishes to appoint a secretary to prepare minutes of the meetings in a manner consistent with the requirements of the bylaws for planning advisory committees. The planning director or designee shall be responsible for recording the meeting and the archival storage of the meeting tapes.

   b. If the committee determines it does not wish to appoint a secretary, the planning director or designee serves as the secretary to the committee and is responsible for recording the meeting, the archival storage of the tapes, and preparation of summary minutes.

   c. The committee may opt to change its appointment of a secretary at any time during the year after appropriately placing the matter on its agenda.

   d. The duties of the secretary shall be to maintain meeting notes and preparation of meeting minutes within the prescribed form and deadline established in the committee’s bylaws;

5. The planning director shall be responsible for receipt, distribution, and preparation of committee correspondence, and related duties as requested by the committee.

6. The planning director shall prepare draft bylaws for the review and approval of the planning advisory committees prior to submittal and final approval by the board of supervisors; each committee may prepare additional components to the standard bylaws meeting committee needs. The amended provisions are subject to review and approval of the board of supervisors;

   H. Notice of committee meetings shall be posted and published not less than fourteen days prior to the date of the meeting at the following locations:
     1. The planning agency internet site, and
     2. The Mariposa County Government Center, and
     3. A centralized posting location within the area served by the committee, and
     4. The meeting location, and
     5. Publication shall occur in a newspaper of general circulation, and
     6. The planning director may supplement required notifications in any manner deemed appropriate for the content of the proposed agenda.

   I. Meetings of a planning advisory committee shall be subject to the provisions of the California Open Meeting Law (Brown Act). (Ord. 973 Sec. 3, 2002)
ATTACHMENT 2

New Chapter 2.39

Chapter 2.39

MARIPOSA COUNTY BUILDING DEPARTMENT

Sections:

2.39.010 Building department established
2.39.020 Building department functions.
2.39.030 Director of building.
2.39.040 Duties of building director.

2.39.010 Building department established.
There is hereby created a county department known as the building department.

2.39.020 Building department functions.
The building department shall:
   A. Implement the building permit and inspection function for the county, including:
      1. Administer, interpret and enforce within the boundaries or the agreed upon line of assessment of the county the California Code of Regulations Title 24, Parts 1-12 as adopted. Administer, interpret and enforce all the applicable county ordinances relating to the state's and county's statutory responsibilities under all of the provisions of the State Housing Law and Earthquake Protection Law, Division 13, Parts 1.5 and 3, Section 18300 and 19992 of the Health and Safety Code of the state as applicable; California Code of Regulations, Title 25, Chapters 1, 3, and 5 as applicable and all other applicable provisions of all future ordinances and laws and amendments thereto relating to building. Such enforcement shall include all of the duties prescribed by these laws, rules and regulations including inspecting buildings and structures to verify that construction or alteration work is being done according to approved plans and in accordance with the provisions of applicable state and local building codes and ordinances, and issue all orders required in enforcement.
      2. Issue all permits required to be issued in the enforcement of the building process. "Permit" means any license, certificate, registration, permit, or any other form of authorization required to be issued by the county, or state if applicable, which deals with construction and building, and excluding permits issued by other county agencies such as the planning commission, LAFCo, etc.
      3. To assist in the implementation of these duties, the building department shall consist of a building director and such other employees as designated by the board of supervisors.

2.39.030 Director of building.
The building director shall administer the building department. The mariposa county board of supervisors shall appoint a building director qualified by training, experience and demonstrated ability to manage the affairs of the building department. The building director shall serve at the pleasure of the board of supervisors.

2.50.040 Duties of building director.

The building director, as chief administrator of the building department, shall:

A. Interpret Title 24 Building Codes and local ordinances to staff, architects, developers, contractors, and property owners; investigate and resolve complaints or disputes regarding code interpretation and enforcement standards;

B. Be responsible for directing, supervising and overseeing the staff activities of the department;

C. Provide training and technical guidance to staff regarding proper inspection, record-keeping, reporting and other department operations;

D. Prepare and administer the budget of the department including tracking and authorizing expenditures;

E. Supervise and approve the issuance of permits and renewals required in the enforcement of the adopted Title 24 Building Codes, including building, mechanical, electrical, and plumbing codes;

F. Direct and supervise the inspections of buildings, structures and other construction or alteration work to verify that work is performed according to approved plans and in accordance with the provisions of adopted and applicable codes;

G. Advise the board on matters relating to Title 24 and other building matters, and act as issuing authority for permits as specified by this code;

H. Enforce and supervise the enforcement of Title 24 Building Code for the county and take such actions as necessary to assure fair and equal enforcement of the adopted building code; and

I. Oversee the collection and deposit with the Mariposa County Treasurer’s Office, all fees and charges for service by the building department, as set forth by this code.
ATTACHMENT 3
Amendments to Section 2.90.020

Chapter 2.90
HISTORIC SITES AND RECORDS PRESERVATION COMMISSION

Sections:
2.90.010 Establishment of commission.
2.90.020 Membership.
2.90.030 Officers.
2.90.040 Commission meetings.
2.90.050 Public participation.
2.90.060 Duties and responsibilities.
2.90.070 Staff support.

...  

2.90.020 Membership.

A. The commission shall consist of nine (9) voting members consisting of the following members: one (1) member representing the Northern Mariposa County History Center, one (1) member representing the Butterfly Garden Club, one (1) member representing the Mariposa Museum and History Center, Incorporated, one (1) member representing the American Indian Community of Mariposa County, and five (5) at-large members. There shall additionally be five (5) alternate members. There shall be one (1) alternate member for each of the above-specified groups and one (1) alternate at-large. Alternate members shall only be permitted to vote when the respective alternate’s regular member is absent. (By way of example, if the regular member representing the Mariposa Museum and History Center, Inc. is absent, the alternate representing the Mariposa Museum and History Center, Inc. may vote, but the same alternate may not vote if the regular member representing the Mariposa Museum and History Center, Inc. is present.) In the absence of a regular member, when his or her alternate is present the alternate shall be counted as a member for purposes of establishing a quorum. The specified members and alternates shall be appointed by the board of supervisors. The members and alternates representing the American Indian Community and the at-large members of the commission shall be appointed to the commission and shall have a demonstrated interest and knowledge of Mariposa County history and historic preservation. (Ord. 1058 Sec.I, 2009).

B. The terms of office of the commission members shall be continuous until resignation or removal by a majority vote of the board of supervisors.
C. If a member of the commission is absent, a member’s absence without cause from two (2) consecutive meetings may be grounds for removal action by the board of supervisors, the office becomes vacant automatically. A member is not absent without cause if the absence is (1) due to illness or (2) unavoidable and the member either prior to or within 48 hours after the meeting gives the chairman or planning director written or verbal notice that the member will be absent and giving the reason for the absence.

D. The members of the commission shall serve without compensation. (Ord. 956 Sec.I, 2000; Ord. 870 Sec.I, 1994).