RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a Resolution establishing an Amnesty Program for Yosemite West.

Based upon direction from the Board of Supervisors, County Counsel prepared a Resolution establishing an Amnesty Program for Yosemite West. Pursuant to Ordinance No. 934 and the Cease and Desist Order of the Regional Water Quality Control Board (RWQCB) of November 15, 2004 certain processes must be undertaken in order to ensure compliance with both the Ordinance and the Cease and Desist Order of the RWQCB.

This Resolution has been reviewed by the County Administrative Officer, Building Director, Planning Director, Public Works Director, Treasurer/Tax Collector, and the Yosemite West Advisory Committee. Their comments and requested revisions have been incorporated into the Resolution.

As the amnesty is only for existing connections to the system it does not appear that any technical report would be required by the RWQCB Cease and Desist Order of November 15, 2004 (at page 11, item 7). Should such a report be required for any permit paragraph 3 of the Resolution addresses that issue.

The Action from the February 15, 2005 meeting is attached for your information.

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Financial Impact? ( ) Yes ( ) No
Current FY Cost: $ ___________
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded

Amount in Budget: $ ___________
Additional Funding Needed: $ ___________

Source:
Internal Transfer
Unanticipated Revenue 4/5's vote
Transfer Between Funds 4/5's vote
Contingency 4/5's vote
( ) General ( ) Other

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CLERK’S USE ONLY:
Res. No.: 05-182 Ord. No. 4
Vote – Ayes: 4 Noes: Bibby
Absent: ___
Approved ___
Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: ___
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: ___
Deputy

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COUNTY ADMINISTRATIVE OFFICER:
Requested Action Recommended
( ) No Opinion
Comments: ___

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CAO: ___

Revised Dec. 2002
MARIPOSA COUNTY RESOLUTION NO. 05-188

A RESOLUTION ESTABLISHING AN AMNESTY PROGRAM
FOR YOSEMITE WEST

WHEREAS, the Board of Supervisors enacted Ordinance No. 934 prohibiting the hook-ups to the Yosemite West Maintenance District’s water and sewer services, and

WHEREAS, the Board of Supervisors prohibited issuance of permits for new bed and breakfasts or transient occupancy facilities as well as permits for new construction or conversion of single family dwellings; and

WHEREAS, the Board of Supervisors prohibited acceptance of any application for processing which required a new sewer or water hook-up or caused any flow increase into the District’s system; and

WHEREAS, repairs have been made to the system such that it can handle existing flows and there are individuals desiring to bring themselves into compliance with Mariposa County rules and regulations for permitting and conversion of facilities; and

WHEREAS, section three item G of Ordinance 934 permits the Board of Supervisors to allow issuance of permits under certain conditions.

NOW, THEREFORE BE IT RESOLVED by the Mariposa County Board of Supervisors, a political subdivision of the State of California, does hereby resolve as follows:

1. That if the Public Works Director can verify that the structures that existed at the time Ordinance No. 933 was enacted and uses will not increase the flow into the current wastewater treatment system at Yosemite West and the RWQCB does not object to such permits, the Mariposa County Health Officer concurs, and it is demonstrated to the satisfaction of the Mariposa County Planning Director that the uses of the structures existed prior to the enactment of Ordinance 933 the permits may be issued as set forth below.

2. That for three months from the date of this Resolution the County of Mariposa will accept and process applications for bed and breakfast and transient occupancy permits, and applications for building permits for constructed or converted buildings which are otherwise in compliance with County Code if the Public Works Director can verify that they are currently discharging to the existing treatment system in Yosemite West and will not increase the flow or otherwise threaten the integrity of the system; and

3. That any applicant for any permits, including but not limited to, building permits, bed and breakfast permits, and transient rental permits, shall, prior to the issuance of the permits, submit all plans for approval, where applicable, and pay all appropriate fees and penalties. Inspections will be conducted after permit issuance based upon the Uniform Building Codes. Any applicant will be required to furnish or pay for any technical or other reports required by the California Regional Water Quality Control Board pursuant to its order of November 15, 2005; and

4. That any applicant shall pay an additional amnesty processing fee of $100 for each permit; and
5. For all construction or conversions of residencies for rental or other purposes for which a building permit is sought to bring the structure into compliance with County Code, the owner or party requesting the building permit or any other permit shall pay staff costs for additional inspections that are beyond those normally allowed under the permit being applied for; and

6. All permits shall be processed in accordance with all codes and policies in effect at the time the application is accepted and the permit is issued; and

7. Any person who has been utilizing the property for rental purposes shall provide to the satisfaction of the County Tax Collector documentation to support any past transient occupancy taxes owed and any and all penalties and interest normally assessed for such delinquent taxes, all of which shall be paid prior to the issuance of a bed and breakfast or transient occupancy permit; and

8. This Amnesty Program shall expire of its own accord at 5:00 p.m. on August 10, 2005 after which time no additional applications will be accepted under this Resolution. All such applications must be at the County office wherein the application is normally filed no later than the date specified hereinabove. Mailed or otherwise transmitted applications which have not arrived in the County office by the specified date and time will not be accepted.

PASSED AND ADOPTED this 10th day of May, 2005, by the Board of Supervisors of Mariposa County by the following vote:

AYES: STETSON, TURPIN, FRITZ, PICKARD
NOES: BIBBY
ABSENT: NONE
ABSTAINED: NONE

Bob Pickard, Chairman

ATTEST: APPROVED AS TO FORM AND

MARGIE WILLIAMS, Clerk of the Board LEGAL SUFFICIENCY:

THOMAS P. GUARINO, County Counsel
RECOMMENDED ACTION AND JUSTIFICATION:

Discussion and direction relative to a Resolution establishing an Amnesty Program for Yosemite West.

Based upon direction from the Board of Supervisors, County Counsel has prepared a draft Resolution for your review regarding establishing an Amnesty Program for Yosemite West. Pursuant to Ordinance No. 934 (copy attached) and the Cease and Desist Order of the Regional Water Quality Control Board (RWQCB) of November 15, 2004 certain processes must be undertaken in order to ensure compliance with both the Ordinance and the Cease and Desist Order of the RWQCB.

This draft Resolution has been reviewed by the County Administrative Officer, Building Director, Planning Director, Public Works Director, and the Treasurer/Tax Collector. Their comments and requested revisions have been incorporated into the draft.

Also, attached is a copy of the Public Works Director's written notification to the RWQCB with respect to this action. As the amnesty is only for existing connections to the system it does not appear that any technical report would be required by the RWQCB Cease and Desist Order of November 15, 2004 (at page 11, item 7). Should such a report be required for any permit paragraph 3 of the Resolution addresses that issue.

The earliest effective date for the Amnesty Program would be 60 days from the date of the Public Works Director's written notification to the RWQCB. The purpose of this agenda item is to request the Board's direction with respect to bringing this matter back before the Board for action should it be the Board's decision to proceed in that manner.
increase the flow; and he stated the moratorium is for those uses that would add to the flow. He thanked staff and the Board, especially County Counsel, for their efforts on this matter. He stated he would be okay with broadening this and hopes that the Board will move forward on this matter.

Further discussion was held. Supervisor Stetson noted the concerns he has received that people feel that a blanket amnesty act could determine the character of the area. Dana Hertfelder responded to questions from the Board as to how soon the moratorium could be lifted after the plant is operating.

(M) Stetson, (S) Fritz, direction was given to County Counsel to come back with an agenda item to take care of the violations that were in effect at the time the moratorium took effect. Discussion was held relative to consideration of imposing penalties. Tom Guarino asked for clarification of the motion relative to allowing structures and uses versus just structures that existed prior to the moratorium. The motion was clarified to state that the ordinance would be revised to reflect that you had to have an existing structure and existing use prior to the moratorium going into effect to qualify for the amnesty program. Supervisor Stetson asked about the status of the continued LeBlanc appeal with this action. Tom Guarino advised that it would be up to Mr. LeBlanc as to whether he would agree with another continuance of his appeal. Dana Hertfelder responded to a question from the Board relative to verifying the flow issues in relation to the establishment of the uses. Tom advised that he will work with Supervisor Stetson to circulate the revised proposal through the Advisory Committee before it comes back to the Board. Ayes: Stetson, Turpin, Fritz, Pickard; Noes: Bibby.

cc: Lee Stetson, Supervisor District I
Kris Schenk, Planning Director
Dana Hertfelder, Public Works Director
File
TO: TOM GUARINO, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: DISCUSSION AND DIRECTION RELATIVE TO ESTABLISHING AN AMNESTY PROGRAM FOR YOSEMITE WEST

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on March 1, 2005

ACTION AND VOTE:

2:02 p.m. Tom Guarino, County Counsel;
Discussion and Direction Relative to a Resolution Establishing an Amnesty Program for Yosemite West (Continued from 2-15-05)

BOARD ACTION: Tom Guarino reviewed the situation; and he advised that a response to the County’s letter concerning the moratorium has not been received as of this date from the Regional Water Quality Control Board. Discussion was held as to whether the amnesty program should be applicable to all or just to those with issues pending at the time of the moratorium in Yosemite West. Discussion was held with Dana Hertfelder, Public Works Director, relative to the status of the waste water treatment project and the legal issues with the contractor.

Discussion was held relative to the amnesty program proposal. Supervisor Bibby asked about the collection of transient occupancy taxes if amnesty is granted; and she asked whether the Yosemite West Advisory Committee has reviewed the proposal, and requested that the Committee make a formal recommendation to the Board. Supervisor Pickard asked about the Committee’s recommendation. Tom Guarino noted that enforcement will need to be done following the amnesty program. Supervisor Bibby asked about fees and processing for the amnesty permits. Supervisor Stetson stated he feels that there needs to be more work on the draft proposal and that the issues that have been raised need to be addressed. Dana Hertfelder and Sarah Williams Deputy Planning Director, responded to questions relative to the number of violations that are in existence that staff is aware of.

Input from the public was provided by the following:

Don Pitts stated he does not feel that the Board should take input at this time if the proposal is going to be revised. He also stated he feels that the proposal is too inclusive and does not penalize anyone.

Don Starchman, Starchman and Bryant Law Offices, on behalf of Ken LeBlanc, stated he believes his client’s case was the focus of this proposal coming forward. He stated he feels that the Board agreed to address those uses that were in place at the time of the effect of the moratorium. He referred to the letter to the Water Board and approval of those uses that will not
MEMORANDUM

Date: April 26, 2005
To: Tom Guarino, Mariposa County Counsel
From: Skip Strathearn, Senior Planner
Topic: Yosemite West Planning Advisory Committee Recommendation on Draft Amnesty Proposal; Item 5. of Committee's Meeting Agenda

At their meeting on April 25, 2005 the Yosemite West Planning Advisory Committee discussed the draft amnesty proposal for Yosemite West.

Following a brief discussion in which Kris Schenk summarized the proposal and satisfactorily answered questions from committee members regarding its specifics, Jeff Hornacek made a motion to endorse the draft proposal. The motion was seconded by Bob Woolard. The committee voted unanimously to approve the motion. Seven of the nine committee members were in attendance at the meeting.

It was the consensus of the committee that the language of this proposal was superior to that of the first draft proposal.

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.
TO: TOM GUARINO, County Counsel

FROM: MARGIE WILLIAMS, Clerk of the Board
BY: RACHEL PETTY, Clerk to the Board

SUBJECT: RESOLUTION ESTABLISHING AN AMNESTY PROGRAM FOR YOSEMITE WEST

Resolution No. 05-188

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on May 10, 2005

ACTION AND VOTE:

Adopt a Resolution Establishing an Amnesty Program for Yosemite West (County Counsel)

**BOARD ACTION:** Tom Guarino, County Counsel presented the item and stated that July 11, 2005 is sixty-one days out for applicants to apply for amnesty.

Supervisor Bibby stated that she has reservations adopting an amnesty plan that utilizes significant staff time and requires the recalculation of EDUs.

Chairman Pickard stated that he sees this program as applicant driven and that it is voluntary.

Supervisor Stetson recommended a three month window before the expiration date.

Tom Guarino clarified the recommendation that applicants must apply by August 10, 2005 at 5:00 p.m.

If an application is not filed by that date, the program will expire.

Supervisor Bibby recommended adopting a date in September versus the August 10th date.

Dana Hertfelder, Public Works Director, stated that Mauldin-Dorfmeir is expected to meet with their consultants today and it may be difficult to finalize a date. He further stated that the project should be done by this summer. (M) Stetson, (S) Fritz, Res. 05-188 was adopted establishing an Amnesty Program for Yosemite West with an expiration date of August 10, 2005, for applicants to apply.

Supervisor Stetson stated that the community has done a tremendous amount of work to prepare themselves for this project.

Chairman Pickard noted that this matter has gone before the Advisory Committee and has received their concurrence.

Supervisor Bibby pointed out that it is imperative to retain the proper permits to avoid adding to time spent by personnel, driving up costs, and creating inaccurate records/Ayes: Stetson, Turpin, Fritz, Pickard; Noes: Bibby.
cc: Lee Stetson, Supervisor District I
Kris Schenk, Planning Director
Dana Hartfelder, Public Works Director
Marjorie Wass, Tax Collector
Charles Mosher, Health Officer
Ken Hawkins, Auditor
Bob Lowrimore, Assessor
File