



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 24-503

July 09, 2024

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Public Hearing to consider an appeal by Gonzalo Narez from the May 13, 2024, decision by the County of Monterey Agricultural Commissioner to deny a Poultry Hobbyist Exemption application request for a Rooster Keeping Operation.

Physical Address of Property: 19205 El Cerrito Way, Aromas, North County Area Plan (APN: 141-091-029-000)

Proposed CEQA action: Find the Board of Supervisor's denial of the Poultry Hobbyist Exemption and the appeal by Gonzalo Narez is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270- Projects which are disapproved.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Find the appeal is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270- Projects which are disapproved;
- b. Deny the appeal by Gonzalo Narez from the May 13, 2024, decision by the County of Monterey Agricultural Commissioner to deny a Poultry Hobbyist Exemption application request for a Rooster Keeping Operation; and
- c. Deny the Gonzalo Narez Poultry Hobbyist Exemption request from a Rooster Keeping Operation permit.

PROJECT INFORMATION:

Agent: Teresa Narez

Property Owner: Gonzalo Narez ET AL

APN: 141-091-029-000

Address: 19205 El Cerrito Way, Aromas

Parcel Size: 5 acres

Zoning: Rural Density Residential, B-6 Zoning Overlay (RDR/B-6)

Plan Area: North County Area Plan

SUMMARY:

This is an appeal filed by Gonzalo Narez (Appellant) to the denial of Appellant's request for a Poultry Hobbyist Exemption determination by the County of Monterey Agricultural Commissioner. The attached resolution (**Attachment A**) reflects staff's recommendation to deny the appeal.

On March 18, 2024, Appellant, who maintains a rooster keeping operation on the property located at 19205 El Cerrito Way, Aromas, applied to the County Agricultural Commissioner for a Poultry

Hobbyist Exemption to the requirement of obtaining a Rooster Keeping Operation Permit from County Health Hitchcock Road Animal Services (Animal Services), which would authorize the applicant to keep five or more roosters on its property without needing a permit. See **Attachment B** for the Narez Poultry Hobbyist Exemption application. Review and approval of applications for this exemption are tasked to the Agricultural Commissioner for review and determination, the purpose of which, is to keep five or more roosters *as a hobbyist* on unincorporated County of Monterey property. The Agricultural Commissioner found that the Narez application request for a Poultry Hobbyist Exemption did not meet the requisite criteria. Pursuant to Monterey County Code (MCC) section 8.50.110.A, to grant a Poultry Hobbyist Exemption, the Agricultural Commissioner must review the applicant's application packet, including supporting evidence documentation, such as photocopies of documents showing breed association memberships and/or information on show entries and results to find that the rooster keeping operation meets the applicable definition of a "poultry hobbyist," as set forth in MCC section 8.04.010:

"Poultry hobbyist" means a person who is recognized by the Agricultural Commissioner as a member of a local, state or national organization which promotes the breeding of poultry for exhibition or show and/or sale of poultry to promote breeding as a hobby. The term "poultry hobbyist" does not include persons who raise poultry for the purpose of making them available for cockfighting.

Upon review of the application and inspection of the property at 19205 El Cerrito Way, Aromas, CA, the Agricultural Commissioner found the operation ineligible, and therefore denied the Poultry Hobbyist Exemption request. See **Attachment C** for the May 13, 2024, denial letter. The primary reason the Agricultural Commissioner denied the exemption is that the Appellant provided supporting documentation of their membership in the California Association for the Preservation of Game Fowl Breeders Association or UGBA. The Agricultural Commissioner does not recognize the UGBA as a legitimate poultry hobbyist organization because it promotes the right to keep and fight cockfighting birds. The Agricultural Commissioner relied on several other important factors denying the exemption. See **Discussion** section below for more information.

On May 20, 2024, Gonzalo Narez filed a timely appeal with the Clerk of the Board of Supervisors to the written decision by the Agricultural Commissioner to deny his request for a Poultry Hobbyist Exemption. Appellant contends (see **Attachment D**, May 20, 2024, written appeal) the decision by the Agricultural Commissioner to deny the Poultry Hobbyist Exemption is "unfair and unreasonable" based on the Appellant's membership with UGBA, because the application also noted Appellant's membership with the American Poultry Association or APA, which the Appellant characterizes as a "recognized and reputable organization". The Appellant contends that after receipt of the denial, he withdrew from the UGBA and requests the Board of Supervisors reconsider and approve his Poultry Hobbyist Exemption request on that basis.

DISCUSSION:

Rooster Keeping Operation Permits- In December 2014, the Board of Supervisors adopted Ordinance No. 5249 (see **Attachment E**), aka the "Rooster Ordinance," which amended Monterey County Code (MCC) *Title 8- Animal Control* making amendments to the title's definitions and

added chapter 8.50 entitled, *Requirements for Keeping Five or More Roosters* to regulate rooster keeping operations. MCC Chapter 8.50 provides several policy reasons that it regulates rooster keeping regulations, such as, to discourage the keeping of roosters for the purpose of illegal cockfighting, to ensure humane treatment of roosters, and to address adverse effects that unregulated rooster keeping operations have on environmental health and safety.

These regulations require a person or entity in unincorporated County of Monterey, that wish to keep five or more roosters on a single property, to submit a Rooster Keeping Operation Permit Application and associated documents for review and determination. County Health Animal Services has a primary role in the processing and oversight of a Rooster Keeping Operation Permit. The Animal Control Officer may issue a Rooster Keeping Operation Permit based upon compliance with the requirements and standards described in MCC Chapter 8.50 and any other conditions and restrictions deemed necessary for the protection of animals and public health, safety, or welfare. By the same token, an Animal Control Officer shall deny or revoke a rooster keeping operation application or permit if the operation's applicant(s) have a criminal conviction for illegal cockfighting or other crime of animal cruelty in any state, or violations of the MCC, or if the location of the rooster keeping operation violates the applicable zoning ordinance or other laws and regulations.

Exemptions to Rooster Keeping Operation Permit- A rooster keeping operation is not required to obtain a Rooster Keeping Operation Permit if it qualifies for and obtains one of several exemptions. (MCC section 8.50.110.A). Here, Appellant's exemption request relies on the Poultry Hobbyist Exemption. For these purposes, a "Poultry Hobbyist" as defined in MCC section 8.04.010.

Poultry Hobbyist Exemption by the Agricultural Commissioner- A Poultry Hobbyist Exemption is defined in the MCC Section 8.04.010 as (**emphasis added in bold font**):

"Poultry hobbyist" means a person who is recognized by the Agricultural Commissioner as a member of a local, state or national organization which promotes the breeding of poultry for exhibition or show and/or sale of poultry to promote breeding as a hobby. **The term "poultry hobbyist" does not include persons who raise poultry for the purpose of making them available for cockfighting.**

The decision whether to grant this exemption is vested in the Agricultural Commissioner, who verifies the exemption application request materials satisfy the exemption criteria. Pursuant MCC Section 8.50.110.B and the Poultry Hobbyist Exemption application, applicants seeking a Poultry Hobbyist Exemption shall provide the exemption application and supporting information such as, but not limited to:

- Number of breed of roosters.
- Attestation that the applicant has no criminal convictions for illegal cockfighting or other crime on animal cruelty in any state and that the roosters in exempt rooster keeping operation have not been and shall not be raised for, used for, sold for, or otherwise be made available for illegal cockfighting.
- Photocopies of documents such as breed association memberships, show entries and results, in other words, proof of hobbyist affiliations.
- To determine whether a Poultry Hobbyist Exemption can be granted, the Agricultural

Commissioner may inspect the property and facilities for which the exemption is sought.

County Code specifies, that if a Poultry Hobbyist Exemption is granted, the Agricultural Commissioner shall notify the applicant in writing, and provide the same notification to the Animal Control Officer at Health Animal Services. The Animal Control Officer shall maintain records of exemptions granted to the poultry hobbyist. The exemption shall be valid for five years from the date of issuance; or until the keeping of five or more roosters ceases; or until an application for a Rooster Keeping Operation Permit is required because the circumstances for an exemption no longer exists.

If a Poultry Hobbyist Exemption is not granted by the Agricultural Commissioner, the denial must be in writing stating the reason for denial and sent to both the applicant and Animal Services. Applicants who wish to maintain a rooster keeping operation, but whose request for an exemption is denied, must apply for a Rooster Keeping Operation Permit with Animal Services before resuming rooster keeping operations. Monterey County Code also provides a process for an appeal of such determination before the Board of Supervisors.

Gonzalo Narez request for Poultry Hobbyist Exemption Application, Agricultural Commissioner's Denial of Hobbyist Exemption and Appeal by Applicant/Appellant

On March 18, 2024, Gonzalo Narez, with a rooster keeping operation on property located at 19205 El Cerrito Way, Aromas, submitted to the County Agricultural Commissioner for review and decision, a Poultry Hobbyist Exemption application with supporting documentation. See **Attachment B** for Poultry Hobbyist Exemption application. The Appellant lists 240 fowl on premises and lists the same total of roosters of the following breeds: silkies, barnyard mix, American Game, and Plymouth Rock. In the Appellant's description of the operation, he describes attending shows to gain valuable tips and insights on how to enhance the appearance and overall health of the Appellant's breeds and gain knowledge on new breeds. The Appellant also lists and provides photocopies of his membership with the American Poultry Association, Inc. (APA) that expires on November 1, 2024, and memberships with the California Association for the Preservation of Gamefowl (CA APG) and the United Gamefowl Breeders Association, Inc. (UGBA) that expire on July 31, 2024. The Appellant attests by signing that he does not have any criminal convictions for illegal cockfighting or other crimes of animal cruelty and that the roosters to be kept pursuant to the applied exemption, have not been and shall not be raised for, used for, sold for, [or] otherwise be made available for illegal cockfighting and that he has not been denied previous requests for exemption.

On May 1, 2024, two County of Monterey Agricultural Commissioner's Agricultural Inspector/Biologists inspected the Narez property at 19205 El Cerrito Way in Aromas and met with Appellant Gonzalo Narez. The Inspectors observed mostly all fowl to be roosters with only a few hens. When asked by the Inspectors about the 240 roosters listed on the application, the Appellant stated that he has roughly 100 roosters and that the information he provided on the application was incorrect. The Appellant also stated he breeds roosters and gives them away to people that want to raise them and to use them for food. Finally, Appellant noted that he was a member of the UGBA, but that he had not yet submitted roosters for competition but was planning on it.

On May 13, 2024, the Agricultural Commissioner mailed a written denial of the Poultry Hobbyist

Exemption to the Appellant. See **Attachment C** for denial letter dated May 13, 2024. The primary reason the Agricultural Commissioner denied the exemption is that the Appellant provided supporting documentation in their application as being a registered member of the California Association for the Preservation of Game Fowl Breeders Association or UGBA. Since the definition of a Poultry Hobbyist Exemption explicitly states: “...*The term "poultry hobbyist" does not include persons who raise poultry for the purpose of making them available for cockfighting,*” the Agricultural Commissioner, in consultation with California Department of Food and Agriculture (CDFA), does not recognize the UGBA as a legitimate poultry hobbyist organization because of their promotion of preserving the rights of keeping cockfighting birds and their connection to the cockfighting realm. On the UGBA website, (see **Attachment F** for excerpts of UGBA website content), it describes game fowl behavior as “Males meet in a selected arena-natural precursor of the gamecock pit, where they use their sharp leg spurs in combat, often to the death”. The article also goes on to describe the practice of “dubbing” of game fowl which is the removal of comb and wattles of a rooster which is done so that the rooster’s opponent cannot tear them off during a fight. It also describes the practice of spur trimming, in which the natural spurs on a rooster’s legs are removed to have the ability to equip the rooster with a sharp metal spur called a gaff to be used as a weapon in cockfights.

The Agricultural Commissioner also relied upon the following factors in denying the exemption:

- On the Additional Information section of the Poultry Hobbyist Exemption Application the Appellant neither not adequately described the operation nor provided sufficient evidence to demonstrate he meets the definition of a poultry hobbyist. No evidence was submitted by the Appellant of active involvement in poultry hobbyist shows with entries and/or awards through the listed affiliations in his application.
- During the May 1, 2024, inspection, it was observed that a vast majority of the birds were roosters and very few hens. The large male to female ratio suggests that breeding is limited and promoting breeding of the birds is not a focus with this operation.
- Additionally, during the inspection, the inspectors photographed roosters that are the variety used for cock fighting. In addition, some roosters were dubbed and their spurs trimmed which is how cockfighting roosters are customarily groomed. See **Attachment G** for these and related photographs from the inspection.
- The Agricultural Commissioner’s Office consulted with Animal Services and learned the following:
 - In September 2021, the Appellant submitted a Rooster Keeping Operation Permit Application to Animal Services.
 - Animal Services performed inspections of Appellant’s property. Animal Services found rooster cages that may not meet building code standards. Consequently, they consulted with Housing and Community Development Code Compliance staff, which subsequently visited the property and found building code violations.
 - Animal Services noted that in one of their inspections, they found six tie downs on the property and keep boxes which restrain and confine the roosters. Animal Services Officer required the Appellant to remove the tie downs and the keep boxes from the property, as these items are considered cockfighting paraphernalia used in cockfighting operations.
 - Ultimately, the Animal Services staff was prohibited to enter the premises by the

Appellant and therefore, no follow up to the conditions of the inspections were verified. This resulting in Animal Services November 2022 written denial of the Appellant’s Rooster Keeping Operation Permit.

On May 20, 2024, Gonzalo Narez appealed the Agricultural Commissioner’s denial of his request for a Poultry Hobbyist Exemption. See Appellant’s letter in **Attachment D**. Appellant contends the denial was “unfair and unreasonable” based on the Appellant’s membership with UGBA, despite also listing a membership with the American Poultry Association or APA, which the Appellant cites as being a “recognized and reputable organization”. The Appellant contends that after receiving the denial, the Appellant withdrew his membership from the UGBA and requests the Board of Supervisors reconsider and approve his Poultry Hobbyist Exemption request on this basis.

Conclusion- In conclusion, staff recommends the Board deny the appeal by Gonzalo Narez from the May 13, 2024, decision by the County of Monterey Agricultural Commissioner to deny a Poultry Hobbyist Exemption application request for a Rooster Keeping Operation, Poultry Hobbyist Exemption and require the Appellant to continue to work with County Health Animal Services to obtain a Rooster Keeping Operation Permit pursuant to MCC section 8.50.090.

California Environmental Quality Act (CEQA)

California Environmental Quality Act (CEQA) *Article 18. Statutory Exemptions*, describes the exemptions from CEQA granted by the Legislature. This appeal fits the following statutory exemption under CEQA Guidelines: section 15270(a).; CEQA does not apply to projects that a public agency rejects or disapproves.

OTHER AGENCY INVOLVEMENT:

Hitchcock Road Animal Services, Health Department
HCD-Environmental Services

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 and FY2024-25 Adopted Budget for Agricultural Commissioner’s Appropriation Unit AGR001, Unit 8001.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective response to our applicants, while adhering to the purposes and requirements of the Rooster Ordinance limiting the keeping of five or more roosters as a legitimate interest of agricultural businesses and agricultural educational organizations with the prevention of inhumane keeping and activities. Processing this Appeal in accordance with all applicable policies and regulations also provides applicant the opportunity for due process.


Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Legistar File Number: 24-503

Prepared by: Nadia Ochoa, Agricultural Resources and Policy Manager, ext. 7384

Reviewed and Approved by: Timothy Lewis, Chief Deputy Agricultural Commissioner
Richard Ordonez, Assistant Agricultural Commissioner
Robert Brayer, Deputy County Counsel

DocuSigned by:

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cc: Juan Hidalgo, Agricultural Commissioner; Timothy Lewis, Chief Deputy Agricultural Commissioner; Richard Ordonez, Assistant Agricultural Commissioner; Cynthia Burnham, Management Specialists; Valiska Lujan, Animal Services Supervisor; Elizabeth Ruiz, Senior Code Compliance Inspector; Joshua Bowling, Chief of Building Services; Robert Brayer, Deputy County Counsel; Gonzalo Narez, Appellant; Teresa Narez, Agent for Appellant.

The following attachments on file with the Clerk of the Board:

Attachment A - Draft Resolution

Attachment B - Poultry Hobbyist Exemption application

Attachment C - Denial Letter of the Poultry Hobbyist Exemption Request, dated May 13, 2024

Attachment D - Narez Written Appeal, dated May 20, 2024

Attachment E - Ordinance No. 5249 "Rooster Ordinance" adopted December 2014

Attachment F - Website Information for: California Association for the Preservation of Gamefowl
ugba.net/statechapters/california.htm

Attachment G - Photographs of May 1, 2024, Agricultural Commissioner's inspection of May 1, 2024, Narez Rooster Keeping Operation at 19205 El Cerrito Way, Aromas