

Attachment A

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DEFENSIBLE SPACE DISCUSSION

Background

The May 2019 Report to the Board of Supervisors addressed three topics:

A. Federal, state, and county laws and regulations addressing fire fuel reduction and forest fires as applied to private property,

B. How these regulations are applied to specific private properties and communicated via the RMA website, and

C. Outcomes to date and anticipated from the RMA/RCD contract to coordinate local, state and federal actions to reduce forest fires in Monterey County.

The report demonstrated that staff had been actively working to keep the public informed of defensible space management requirements. However, the complexity of government regulations require ongoing governmental oversight. The potential conflict between regulations occur when residents want to clear trees and forested areas without needing to involve county government. Any regulatory changes would add to the long-range planning work program and/or involve legislative changes at the State and Federal level.

The primary State regulation for defensible space is defined by Public Resources Code 4291, which sets standards for fuel management within 30 feet and 100 feet of habitable structures in rural areas. See **Attachment C**. Other requirements apply within Wildfire Urban Interface areas in the California Building Code, which went into effect in 2008. Monterey County also has an adopted Community Wildfire Protection Plan under the federal Healthy Forests Restoration Act. The County does not charge any fees for an over the counter review of a defensible space/landscape plans to determine whether any issues would trigger some kind of permit.

In the Coastal Zone, the County is delegated authority through its certified plans and ordinances that address related issues such as environmentally sensitive habitat areas (ESHA), visual resources, forest resources. County staff work with property owners to balance these requirements through issuance of individual coastal development or administrative permits. County staff confer with Coastal Commission staff on areas where questions and potential conflicts come up. They seek to aid property owners, but sometimes the issues transcend the County to state and federal regulations.

Staff recommended continuing as Monterey County has been doing to enhance the public's knowledge of defensible space regulations on individual properties and to implement countywide fire management in an effective, ecological manner.

The Board of Supervisors concurred with this recommendation and acted to:

1. Ask RMA to add Fire/Fuel Modification and Defensible Space to their list of long range planning priorities, and that they be included in RMA's Long Range Work Plan;
2. RMA to consider changes to its Fire Prevention Policies in its on-going long range planning projects, specifically, in the updates to the Big Sur Land Use Plan;

3. RMA should move forward now with making improvements to the information available on the website, about fire/fuel modification, hardening homes, defensible space, etc.; and
4. For the Legislative Committee to make Fire Prevention a priority in the County's legislative agenda to better align state regulations and local fire prevention policies.

This report is organized as follows: 1. County information updates, 2. Defensible Space Enforcement, 3. RCD and CALFIRE grant proposals and projects, 4. State Legislation, 5. Recommendations.

1. County Information on Defensible Space.

- The RMA website was revised to add a specific 'What is Defensible Space' section with links to local and CALFIRE defensible space definitions, illustrations and resources. **Attachment A.**
- The Board adopted a new fee schedule that removed fees for Hazardous and Dead Tree removal permits and Fuel Management Plan Review.
- A presentation and discussion was held at the Big Sur Multi-Agency Advisor Council (BSMAAC) meeting on November 1, 2019 on Federal, State and Local regulations applicable in Big Sur that impact vegetation removal to create defensible space, with input from Coastal Commission staff. Members of the Big Sur community asked for clarification about what can and cannot be done without a permit from Monterey County or the CCC, asked questions about the role of the local fire brigades, commented on the restrictiveness of conflicting environmental regulations and asked if the County and the State would declare an emergency to suspend laws, identified concerns about invasive species, the need to also implement home hardening measures such as changing roof materials and other structural fire proofing, and the need for increased education. Assembly member Robert Rivas spoke to new State legislation and Senator Bill Monning's office shared their tracking of fire insurance cancellations.
- Mr. Mike Caplan and the Fire Safe Council of Monterey County have petitioned the Board of Supervisors to ask the Governor to declare all of Monterey County in a state of wildfire emergency, and utilize his emergency powers to suspend local, state, and federal laws that might impede fire fuel reduction to maintain defensible space and reduce the potential for forest fires, **Attachment B.** In response to the letter submitted by Mike Caplan, staff asked the County's State lobbyist, Nossoman and Associates, to make inquiries about the viability of a request for the Governor to make an emergency declaration to suspend environmental regulations to allow for vegetation removal for defensible space. Nossoman talked with California State Association of Counties (CSAC), and Rural Counties Representatives of California (RCRC), and from what we know and have heard from the Administration, there is no interest or path forward in requesting environmental regulation suspensions for defensible space clearance. Additionally, it does not appear there would be support for such a request from CalFIRE.

- RMA worked with fire agencies to develop a 1-page hand out for what property owners can do without a permit, which is being updated based on recent feedback. In addition, over the past ten years, RMA has worked with Fire agencies and CCC to issue multiple emergency permits for discrete project areas. It requires some preparatory work to address environmental concerns, but we believe that this is a more viable option to a blanket lifting of regulations.
- RMA staff has been working with the Big Sur Land Use Advisory Committees to update the Big Sur Area Plan, which was adopted in 1986. Forest fire reduction and defensible space and fire fuel reduction are key topics being addressed in the Plan update. Coastal Commission staff, following the November BSMAAC discussion, have recommended prioritizing this topic in its review process.

2. Defensible Space Enforcement

- County staff met with Monterey County fire chiefs on September 19, 2019 to discuss ways to improve local ordinances governing defensible space. A key topic was the approach being utilized in several counties, which would permit local fire districts to inspect and enforce state defensible space law on private property. The cost of necessary fuel reduction, if not undertaken by the property owner, could be recovered by a tax lien on the property. The fire chiefs did not support this approach because it is outside the purview of the County, as well as, concerns about impacts to the Fire District's liability and unfunded project costs. While the fire chiefs are not recommending moving forward with any county-wide ordinance at this time, this option could be further considered once the State has developed a model defensible space ordinance (See SB190 below).
- The Monterey County Office of Emergency Services (OES) conducts annual Threat Assessments for the County's Operational Area. Additionally, OES is responsible for the County's Multi-Jurisdictional Hazard Mitigation Plan. The plan analyses the County's Threats and Hazards and makes recommendations to mitigate the impact. Wildland fuel management increasing defensible space is an objective supported by the County's Multi-Jurisdictional Hazard Mitigation Plan.
- In addition to these County activities, LAFCO is currently drafting an update to its previous (2012) periodic countywide report on fire protection and emergency medical services. The study, which will be completed by June 2020, will review all public agencies and volunteer groups that deliver fire protection and EMS services within the unincorporated county, with an emphasis on identifying potential improvements in the most underserved and at-risk areas. The study will also identify and discuss agencies that have important supporting roles in service delivery. For example, the County of Monterey provides emergency dispatch services, oversees a countywide ambulance service contract, and helps fund programs to support fuel reduction and creation of defensible space in high-fire-risk areas. One goal of LAFCO's study will be to help raise awareness of programs such as fuel reduction and defensible space, as well as explore potential future opportunities to enhance these efforts.

3. RCD and CALFIRE grant proposals and projects.

The RCDMC and CalFIRE have made significant progress with securing grant funds and implementing project in Monterey County over the last year. Monterey County's funding support to the RCDMC for developing a Fire Fuel Mitigation Program and preparing grant application has been an important component of being able to leverage additional funds to address fire preparedness. Accomplishments to date include:

- County support for the Resource Conservation District of Monterey County to coordinate the Fire Fuel Mitigation Program has enabled RCD to raise \$190,000 in USDA Forestry Assistance funds, \$97,217 in CA Dept. of Conservation Forest Health funds, \$198,670 in CA State Coastal Conservancy Forest Health funding, and \$227,591 (with CSUMB as grant lead) in CALFIRE Fire Prevention funds to support critical local mapping, project coordination, and education for forest fire fuel management in Monterey County. \$713,478 in total has been awarded to the RCDMC to support forest health and fuels reduction work in Monterey County.
- RCDMC has two additional CALFIRE grant proposals currently in review, totaling \$2.4M and \$4.8M for fuel load reduction work in Carmel Valley and for the Los Padres Strategic Community Fuelbreak Collaborative, respectively. RCDMC has supported two other proposals with UCCE and the Fire Safe Council as well. Word on them is expected in April 2020.
- Utilizing County funds, RCD has worked closely with CALFIRE, citizens, supervisors' offices and a subcontractor, Turf Image, to complete four community fire resource mapping projects and develop a county-wide fire resource database (hosted by the RCD) to support longer term fire infrastructure and forest health mapping efforts. Based on the success of this work, RCDMC will pursue funding for future community fire resource mapping projects and County fire resource geodatabase refinement.
- CAL FIRE conducted fuel reduction projects in support of defending communities throughout Monterey County. In addition to other, routine work (e.g., prescribed burning in the Gabilan Range, community chipper events in Aromas, Bryson-Hesperia, Cachagua, etc.), CAL FIRE completed significant progress on the Governor's Priority Projects, 3 of which were in Monterey County:
 - o Palo Colorado Community Fuel Break: 862 acres
 - o Laurel Springs-Hennicksons Ridge: 433 acres
 - o Palo Corona Fire Roads: 457 acre

4. State Legislation

Preparedness for wildfires was a significant legislative issue in the 2019 session. Following is a brief overview of new related legislation passed in 2019:

- **SB 190, Dodd. Fire safety: building standards: defensible space program.**
This bill requires the Office of the State Fire Marshal to develop, in consultation with representatives from local, state, and federal fire services, local government, building officials, utility companies, the building industry, insurers and insurance research organizations, and the environmental community, a model defensible space program to be

made available for use by a city, county, or city and county in the enforcement of the defensible space provisions. The bill sets forth required components of the program and requires the model defensible space program to be updated when the guidance documents specified above are substantially updated, as provided.

- **AB 38 Fire safety: low-cost retrofits: regional capacity review: wildfire mitigation.** This bill establishes a 5-year pilot program that will require California's Office of Emergency Services and CAL FIRE to work together to utilize a broad range of potential funding, including federal funds, to proactively support at-risk communities by proposing the first-ever statewide fire retrofit program to help communities and owners of homes built prior to updated building codes in 2008 to harden their homes and make them more likely to survive future fires. Funding could be used to encourage cost-effective structure hardening and retrofitting and vegetation management to improve the fire resistance of homes, businesses and public buildings. The bill requires the State Fire Marshal, in consultation with specified state officials, to identify building retrofits and structure hardening measures, and the Department of Forestry and Fire Protection to identify defensible space, vegetation management, and fuel modification activities, that are eligible for financial assistance under the program.
- **AB 188 Fire Insurance: Valuation of Loss.** Requires that the actual cash value of a claim for the total or partial loss due to a fire of a structure and its contents be equal to the cost of repair, rebuild, or replace of the lost property, minus a fair and reasonable depreciation based on its condition at the time of the incident or the policy limit, whichever is less.

5. Recommendations

- Continue to include fire mitigation and defensible space in County's legislative agenda.
- Prioritize consideration of defensible space issues in Big Sur LUP update discussions with LUAC and Coastal Commission staff.
- Continue to support RCD with additional augmentation funding for grant writing, project coordination, mapping and pursuing opportunities to implement defensible space projects and to provide support to HOAs, ROAs, and similar neighborhood scale efforts to improve fire preparedness.
- Coordinate with OES on Hazard Mitigation Plan on fire issues and projects for inclusion, ensure input is gathered from RCD FFMP, Fire Safe Council, and Fire Districts.
- Return to the Board for future discussion of findings of LAFCO MSR review of fire districts and recommendations.

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