Board Referral - 2019.12
Tribal and Archaeological Monitor Penalties

RESOURCE MANAGEMENT AGENCY

JUNE 16, 2020

Background

- Development Project Conditions/Mitigations require Arch and Tribal Monitors
  - Mapping and Land Use Policies
  - Protect resources
  - Code enforcement for non-compliance
- Current penalties codified in section 1.22.100
  - First Day: $100
  - Second Day: $200
  - Third Day and Beyond: $500/day
- Creates "One Size Fits All" penalty structure
- Board Direction to explore increased penalties
- Staff seeking direction on priority

Ordinance Development

- Modified through ordinance and/or policy
- Considerations:
  - Title 1(General Enforcement) vs. Title 20/21(Zoning) vs. Land Use Plan
  - New Code section vs. Amendment
  - Coordination with other jurisdictions
  - Stakeholder outreach
    - State Native American Heritage Commission
    - Local Tribes
    - Public Interest Groups
    - Other?
  - County Technical Advisory Panel (NAARTAP)
- State Legislation

Penalty Increase Considerations

- Proportionality – Legal research
  - State Regulations
  - Court Cases
- Countywide equity of increased penalty
  - Coastal vs. Inland
- Alternative and/or additional forms of penalties
- Additional monitoring
  - 3rd party vs. County staff
- Other violations needing enhanced penalties
  - E.G.: Unpermitted Tree Removal, ESHA Damage, etc.

Staff Resources

- Combined effort - RMA Planning and Counsel
- Estimate +/- 6 Months if assigned as a top priority
  - Depends on amount of outreach
  - Will require other work to be set aside
- Impact to 2020 RMA Workplan:
  - DES Program
  - Ordinances: ADU, Mixed Use, Landscape, Vacation Rentals
  - Plans: Big Sur LUP, Moss Landing CP, Chualar CP, Castroville CP
- Impact to County Counsel Priorities
  - RMA Ordinances
  - Other Counsel Business

Board Direction

- Ordinance Development
  - Amount of outreach
  - Policy considerations from Board
- Level of priority – RMA & Counsel
  - When to begin?
  - 2020 RMA Workplan Impacts?