



MUNICIPAL ADVISORY COUNCIL POLICIES

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Contra Costa County Board of Supervisors on December 16, 2008

Upon the recommendation of the Ad Hoc MAC Committee

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Upon the recommendation of the Internal Operations Committee

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Introduction

In recognition of the need by unincorporated communities for increased influence with their county boards of supervisors, municipal advisory councils have been organized in some counties under authorization of a 1971 legislative statute. Such a council is an advisory body of local citizens appointed by the board of supervisors with the purpose of representing the community to the board. Although a municipal advisory council is a Board of Supervisors-established advisory body, it has no fiscal authority or administrative organization. Because it lacks authority to implement its position directly, it seeks to accomplish its goals through county government. These councils face two ways: toward the county, offering the views of the community; and toward the community, supplying information about county proposals and a place where individuals can air opinions on community problems and perhaps receive assistance and guidance. The councils hold public meetings, survey community opinion and speak for the community to the board of supervisors. The most common subject of activity is land-use planning.

The following policy was adopted for the purpose of improving consistency among the County's Municipal Advisory Councils (MACs). Previously, there had been little consistency in the membership composition, method of member selection, staff support, activities conducted, methods of community outreach, and fiscal resources among the MACs. While some of these variances may have appropriately reflected the inherent differences in the communities served, a policy framework for the operating rules and procedures of the MACs ensure that the MACs are effectively serving their advisory purpose and, in that regard, are accurately representing the concerns and recommendations of the community.

1. MAC Member Appointments

Resolution No. 2020/1 (“Appointments to, Formation of, and Requirements for Board Advisory Bodies”) states: “Except for county officers and employees serving in an official capacity, all advisory body members shall have specific terms of appointment as prescribed by statute or as fixed by the Board. Unless otherwise specified, appointees shall serve four-year terms, and terms should be staggered to limit the number of scheduled vacancies at any one time.”

MAC members are appointed by the Board of Supervisors, upon nomination by the District Supervisor. Often, after the expiration of a member term, the member continues to serve in the seat until re-appointment or dismissal. Although the continuation of service may seem efficient from the perspective of having a seat filled, it can create the impression that re-appointment is an automatic process.

- a. There should be no automatic re-appointment of MAC members.

- b. At the expiration of the term, the MAC member appointment should be terminated, and the MAC member should not hold over.
- c. The District Supervisor may choose whether to re-nominate an incumbent member or nominate a new member. Any re-nomination or nomination must be approved by the Board of Supervisors.
- d. Effective January 2009, MAC member terms shall be coterminous to the term of office of the District Supervisor nominating the member. Appointments should be made within 60 days of the beginning of the District Supervisor's term.
- e. In the case of newly-elected Supervisors, MAC members can carry over their positions for a period not to exceed 90 days, to allow time for a Supervisor to recruit and make position selections and nominations to the Board of Supervisors.

2. MAC Member Termination

Each appointed member of the MAC serves at the pleasure of the Board of Supervisors and may be removed, at will, by a majority vote of the Board. The rescission of an appointment by the Board is rare. However, policies should be in place in the event that a MAC member acts inappropriately toward other MAC members, staff, or the public; acts outside the authority of the MAC; or has persistent problems with attendance.

- a. MAC members may be removed from their appointments at will upon recommendation by the District Supervisor to the Board of Supervisors.
- b. MAC members should express concerns about any inappropriate behavior by a member to the District Supervisor.
- c. If an issue arises, a District Supervisor may meet with or send a letter to the MAC member and the MAC Chair, advising the member of the concern and indicating that a failure to correct the inappropriate behavior may lead to removal.
- d. The MAC member should receive written notice of a recommendation for removal, of the date and time of the meeting at which the Board will consider the matter, and of the opportunity for public comment to the Board before action on the matter.
- e. If a MAC member or alternate has been absent from two consecutive meetings, the secretary or administrative support staff should advise the member or alternate that absence from three consecutive regular meetings of the MAC may result in a recommendation of termination to the Board of Supervisors.
- f. Where it appears that there will be sufficient members to hold a meeting but at the actual time of the meeting a quorum cannot be reached and the meeting is

canceled, those members or alternates who are absent will have an absence counted against them.

3. MAC Alternate Positions

Alternates can serve a useful purpose by assisting with the achievement of a quorum. However, a policy of automatic appointment of the alternate in the event of a vacancy may discourage other interested individuals from applying for appointment. Moreover, appointments should not be made automatically, in respect of District Supervisor responsibility for member nominations.

- a. Alternate positions do not automatically assume a member position when a vacancy arises. Alternates, however, may be nominated to fill a member vacancy to the Board of Supervisors by the District Supervisor.
- b. The District Supervisor may recommend to the Board establishment of up to two alternate positions for a 5 member MAC and one alternate position for a 7 member MAC.

4. MAC Youth Representative

The District Supervisor may recommend to the Board establishment of one non-voting youth representative position on any MAC. This non-voting position shall not affect quorum requirements.

5. MAC Membership Size

MACs are currently comprised of either 5 or 7 voting members with one, two, or no alternates, and are sized to correlate with the size of the community they represent, and to provide greater consistency among the MACs and equalize administrative support requirements. MACs that represent unincorporated communities whose population is less than 4,000 should have a membership of no more than 5 voting members.

| MAC | District | Current Size |
|----------------------|-----------------|---------------------|
| Alamo | II | 7 |
| Bay Point | V | 7 |
| Bethel Island | III | 5 |
| Byron | III | 5 |
| Diablo | III | 5 |
| El Sobrante | I | 7 |
| Kensington | I | 5&2alts |

| | | |
|-----------------------|-----|-------------|
| Knightsen | III | 5 |
| North Richmond | I | 7 |
| Pacheco | V | 5 & 1 alt.* |
| Rodeo | V | 5 |

5. MAC Committees

Some MACs have established committees (or subcommittees) to address particular subject areas considered by the MAC. However, contrary to requirements, the committees have not always operated in accordance with MAC operating procedures, the Brown Act, and the County’s Better Government Ordinance. Unless these policies and procedures are followed, the MAC, the public and the Board of Supervisors may not be well served by the committees.

- a. MACs may establish a single-purpose committee (or subcommittee) when needed. The committee (or subcommittee) shall be composed solely of less than a quorum of the MAC and chaired by one of its members. Members of the public who are not MAC members may not serve on a committee or subcommittee.
- b. A specific charge or outline of responsibilities shall be established for the committee (or subcommittee) by the MAC in its Board-approved annual work plan. A target date shall be established through the annual Work Plan for report back to the MAC. The maximum life of the committee (or subcommittee) shall be one year, with annual review, and possible extension by the MAC through the annual Work Plan.
- c. The committee (or subcommittee) shall operate in accordance with MAC operating procedures, the Brown Act, and the County’s Better Government Ordinance.
- d. Meeting agendas for committees (or subcommittees) shall be posted and records of action should be maintained and posted as well.

6. MAC Meeting Frequency, Location, Length, Operations

Current policy in the MAC establishing resolutions indicates that MACs “shall hold regular meetings *at least monthly* at an established time and place.” (*Italics added.*) Many MACs meet twice a month, with additional committee meetings. The frequency and length of meetings increase the cost and requirements of administrative support for the MACs. However, MACs should meet as needed to ensure timely and effective input on land use matters.

- a. MACs shall establish a standard meeting schedule for the year as part of its Board of Supervisors-approved annual work plan, making changes in consultation with the District Supervisor’s office.
- b. MAC meetings should be held at a time and place convenient and accessible to MAC members, the community, and administrative support staff.
- c. Generally, MAC meetings should not exceed three (3) hours in length.
- d. MACs shall fully comply with the Board of Supervisors’ policy concerning conflict of interest and open meetings (Resolution No. 2002/376).
- e. The MACs shall agendize and respond to items that are referred to them in a timely manner (i.e., within 30 days of referral) such that their review does not delay the County consideration of the matter.
- f. Time limits may be imposed in the course of the meeting by the Chair. In general, speakers should be prepared to make their points known within three minutes.
- g. The agenda should reflect and the MAC Chair should remind the public at the start of each meeting that the MAC is an advisory body to the Board of Supervisors.

7. MAC Training Requirements

The staffs of the County Administrator’s Office (CAO), Auditor-Controller and County Counsel annually train advisory body and MAC members on operating procedures, fiscal procedures, the Brown Act, the County’s Better Government Ordinance, and County government in general. Training provides MAC members with resources and knowledge to operate efficiently and effectively.

- a. MAC members must attend a training offered by the CAO staff at least once during the first two years of his/her term, preferably in the first year, and must view the video training “The Brown Act and Better Government Act—What You Need to Know” within 60 days of their appointment by the Board of Supervisors.
- b. MAC members are encouraged to attend the annual advisory body training and should receive an orientation on MAC member duties and responsibilities by District and/or CAO staff before their first meeting. CAO staff will develop and distribute a MAC Handbook to members, as well as a guide to the Brown Act.
- c. Within three months of appointment, each MAC member shall complete the prescribed training on compliance with conflict of interest and open meeting laws and shall certify that he or she has completed such training. Training certificates should be maintained by the District administrative support staff.

- d. MAC chairs and/or treasurers must receive fiscal training offered by the Auditor-Controller's Office and CAO staff before assuming their position.

8. Administrative Staff Support of MACs

Administrative support resources have varied widely among MACs. Some MACs have handled their own administrative matters; others have been supported by District staff or a contractor. To ensure effectiveness, all MACs need some level of administrative support services provided by either District staff or through an independent contractor.

- a. Each District Supervisor should determine if their MACs will receive administrative support services from District staff or an independent contractor retained by the District.
- b. In all cases, District staff should be responsible for fiscal oversight of the MACs.
- c. Administrative support services to the MACs could include some or all of the following:
 - i. MAC agenda preparation, posting, and distribution.
 - ii. Attendance at MAC meetings and arranging for County staff attendance, as needed.
 - iii. Preparing responses to inquiries made during public comment.
 - iv. Preparing responses of requests from MAC members.
 - v. Records of action posting and distribution.
 - vi. Filing and maintaining training certifications.
 - vii. Fiscal oversight of the MAC budget and establishment of Petty Cash fund.

9. MAC Funding

- a. Each District Office should be provided \$3,000 annually per MAC for support of MAC operations. Prior to FY 2014/15, funding was not available for this purpose; however, the Board allocated operations funding for FY 2014/15. Non-General Fund support for MAC operations should be identified during those periods when County General Fund support is unavailable.
- b. Funding will be restricted to the following uses: clerical support, telephone expenses, post office box expenses, postage, print and mailing services, and community meeting expenses. Funding may not be expended on other items not directly related to the functions and activities specified in the Board-approved annual work plan.

- c. MACs are encouraged to seek and apply for funding from other non-County sources to supplement their budget.

10. MAC Operating Procedures--Creating Agendas, Posting Agendas, Records of Action, and File Storage

Not every MAC has consistently operated in adherence with a set of operating rules, the Brown Act, the County's Better Government Ordinance, the Board of Supervisors' policy concerning conflict of interest and open meetings (Resolution No. 2002/376), and the Board's policy governing appointments to boards, committees, and commissions (Resolution 2020/1). Without adherence to policies and rules, public participation and the provision of public information is hampered. In addition, the District Supervisor and Board of Supervisors may not be well served by a lack of timely and accurate information.

- a. The agenda for a MAC meeting should be created by the MAC Chair in consultation with the administrative support staff. The County Administrator's Office will provide an agenda template. The Agenda should include a statement that the MAC is an advisory body to the Board of Supervisors.
- b. The agenda for a MAC meeting shall be posted in accordance with the Brown Act and the County's Better Government Ordinance.
- c. District staff is encouraged to post the agenda and record of actions on the District webpage and must post the agenda in the Public Meetings Agenda Center.
- d. Materials distributed for the meeting must be available for viewing at a specified location that is a public place, accessible during normal business hours, at least 96 hours before a scheduled meeting. In addition, a sufficient number of copies of meeting materials (a minimum of 10) should be available at the meeting for MAC members and the public.
- e. The MAC should keep a record of its actions in a form prescribed by the County's Better Government Ordinance: "Each County body must keep a record of its meeting. Though the record need not be verbatim, i.e., a tape-recording, it must accurately reflect the agenda and the decisions made in the meeting." (Ord. § 25-2.205).
- f. The Record of Actions should be approved by the MAC and submitted to the District Supervisor office no later than one month after their approval. The County Administrator's Office will provide a template for Records of Actions.

- g. Storage space for MAC files should be provided at District Supervisor offices where feasible. For transition purposes, District Supervisors should have access to at least two years of records. If there is insufficient space in the District offices, the County Administrator's Office can assist with the provision of storage space at a centralized location.
- h. MACs will not maintain Conflict of Interest Codes; however, as Board of Supervisors appointees, MAC members are required to follow Resolution No. 2002/376, the Policy for Board Appointees on Conflict of Interest and Open Meetings, which states, "*All Board Appointees should so conduct the public business as to avoid even any appearance of conflict of interest.*"

11. MAC External Communications and Representations

MACs advise the Board of Supervisors on land use and planning matters affecting their communities of interest and may represent their communities before the Board of Supervisors, the Planning Commission and the Zoning Administrator on such issues as land use, planning, and zoning. MACs may also represent the community before the Local Agency Formation Commission on proposed boundary changes affecting the community.

MACs may advise the Board of Supervisors on services which are or may be provided to the community by Contra Costa County or other local government agencies. Such services include, but are not limited to, public health, safety, welfare, public works, and planning. MACs may also provide input and reports to the Board, County staff or any County hearing body on issues of concern to the community.

However, it is understood that the Board of Supervisors is the final decision making authority with respect to issues concerning the community and that the Council shall serve solely in an advisory capacity.

- a. Except as specified, the MAC and its individual members acting on behalf of the MAC, may not represent the community to any federal, state, other county, city, special district or school district, agency or commission, or any other organization on any matter concerning the community.
- b. Individual MAC members cannot represent the MAC's positions unless such representation has been expressly authorized by a vote of the MAC. When an individual member is authorized to represent the MAC's position to the Board of Supervisors, Planning Commission, Zoning Administrator, or LAFCo, that member should speak only to those topics which have been expressly authorized by the MAC and only with respect to the issues MACs are authorized to address.
- c. The MAC may not, as a body, take positions on candidates for any public office or take positions on any legislative matter.

- d. On any business cards, letterhead, or printed material from the MAC, the MAC should be identified as an advisory body to the Board of Supervisors, and the contact information for the District Supervisor should be included.

12. MAC Annual Reports, Including Work Plans

Work Plans had not been regularly submitted by the MACs; however, they are a good planning tool and help focus the MAC's time and attention. With respect to "Responsibilities of Advisory Bodies," Board Resolution 2011/497 states: "Each advisory body shall submit an Annual Report to the Board on its activities, accomplishments, membership attendance, required training/certification (if any), and proposed work plan or objectives for the following year, in December."

- a. In January 2014, the Board expanded the scope of the annual report to include a section on receipt and expenditure of funds, by line item/expenditure category.
- b. Each MAC should be reminded of its annual reporting responsibilities by administrative staff support.
- c. MAC annual reports, including work plans, should be reviewed by the District Supervisor who will recommend appropriate action by the Board of Supervisors.
- d. Each MAC should consult with District staff when developing its annual work plan.
- e. Failure to submit the required annual report and work plan may result in consideration of MAC dissolution.

13. MAC Boundaries

The current MAC boundaries do not necessarily reflect the "community of interest" for every MAC. A few MACs are surrounded by a combination of established boundaries (city or special district boundaries) or natural boundaries. However, others are partially surrounded by cities but may include industrial or agricultural land outside the Urban Limit Line. Others include lesser inhabited rural areas or government-owned areas (such as an airport, special district lands, transitional military bases, etc.).

In addition, there had previously been no apparent common or consistent rationale for the MAC boundaries. There are unique characteristics of each area; however, the boundaries should reflect the true "community of interest" for each MAC. Therefore, the following

criteria are established to redraw the MAC boundaries, as necessary, to achieve this objective.

The area for which the MACs will serve and discharge their duties and powers is the unincorporated area described on the attached maps which reflect the following criteria:

- a. Use of Borders: The unincorporated community of interest may be bounded by established borders such as county and city limit lines, special district boundaries (including, but not limited to, park and water districts), census tracts, geographic features such as highways or waterways, and/or the adopted Urban Limit Line. *Borders are followed to the extent practicable and to the extent that they reflect the generally recognized “community of interest.”*
- b. Population Density and Community Affiliation: Population density and recognized population centers should be considered in determining boundaries (where established borders do not exist). The unincorporated community of interest should also include the neighborhoods or residential areas commonly or traditionally affiliated with the name of the community. *Uninhabited or sparsely populated rural or agricultural areas should generally be excluded unless there are known or anticipated matters of public health, safety, welfare, public works, and/or planning.*
- c. Areas of special interest: When an unincorporated community of interest is adjacent to industrial areas or facilities (e.g., refineries, power plants, gas fields), these areas should be included if there are known or anticipated matters of public health, safety, welfare, public works, and/or planning. When an unincorporated community of interest is adjacent to government-owned lands (e.g., airports, special district lands, transitional military bases, etc.), these areas should be included only if there are known or anticipated matters of public health, safety, welfare, public works, and/or planning.

14. Community Service District (CSD) Board Members as MAC Members

The MAC and the CSD are separate bodies and cannot be combined into a single public entity¹. However, the Board of Supervisors can create a MAC and specify that the members of the MAC shall be those persons serving as Directors of the CSD. (This was accomplished in April 2007 for the Diablo MAC.)

¹ At its March 12, 1997 meeting, the Contra Costa Local Agency Formation Commission (LAFCo) passed Resolution 96-19 that addressed termination of the Discovery Bay Municipal Advisory Council and stated that its advisory functions would be assumed by the Discovery Bay CSD Board of Directors. Subsequent to that action, the Board of Supervisors passed Resolution 97-295 terminating the Discovery Bay Municipal Advisory Council effective December 1, 1998 and acknowledging that DBCSD would assume the advisory functions previously performed by the MAC: “In order to create a smooth transition of ‘in- progress’ advisory functions to the newly created DBCSD, the Discovery Bay Municipal Advisory Council shall be terminated on December 1, 1998, and its advisory responsibilities shall be assumed by the DBCSD Board of Directors.”

In April 2009, the Board amended its Better Government Ordinance (BGO) to exempt MACs whose membership composition is the same as the elected members of a CSD in order to eliminate any conflicts in open meeting and operating requirements between the County and a CSD. The exemption relates only to the BGO; MACs whose membership comprises a CSD board must still comply with the Brown Act and Public Records Act.

When the Board of Supervisors designates that a MAC shall have the same membership composition as a CSD Board, the CSD Board can then submit an application to the Local Agency Formation Commission (LAFCo) to activate its latent power to finance the operation of a MAC. After receiving LAFCo's approval, the Board of Directors may, by ordinance, order the exercise of that power. (Gov. Code §§ 61100 (ad); 61106). For such bodies:

- a. The "Membership" provision of the MAC's establishing resolution should be amended to specify that the Council would consist of five members who shall be the current elected members of the CSD, appointed by the Board of Supervisors, upon nomination by the District Supervisor.
- b. The "Term of Office" provision of the MAC's establishing resolution should be amended to specify that a MAC member's term shall be the same as his or her term of office on the CSD Board of Directors. Also, vacancies would not be filled through the Board of Supervisors appointment process. Rather, they would be filled based upon the result of CSD elections.
- c. The "Removal from Office" provision of the MAC's establishing resolution should be deleted, as it would not be consistent with representation by elected CSD Board members serving ex officio as members of the MAC.
- d. The "Quorum and Vote Necessary for Action" provision of the MAC's establishing resolution should be deleted, as it is more efficient for the MAC members to operate pursuant to the quorum and vote requirements of the CSD.
- e. The MAC's "Territorial Area," or boundaries, should be modified to be coterminous with that of the CSD unless there are compelling reasons for separate boundaries owing to the CSD's service requirements or the identification of the MAC's "community of interest."
- f. Notwithstanding the above amendments, the MAC should continue to operate as a County advisory body, subject to the County's operating procedures and policies for MACs and other advisory bodies, including the County's Better Government Ordinance.