

Code Compliance Enforcement

Does it pass inspection?

This Grand Jury set out to discover why it takes so long to resolve code compliance complaints. We sought to gain a basic understanding of the mechanism for resolving code violations and the limitations on enforcement.

A code compliance staff of dedicated professionals copes with 750 incoming complaints each year, but despite its best efforts resolves only 80 percent of them. We noted that the goal of the enforcement program is to handle violations fairly and without litigation if at all possible. The process, however, allows violators many options for legal action and delay.

Except in rare instances, code violations are only reported via citizen complaints. County personnel are not required, or even encouraged, to report violations unless they observe very significant health or safety issues. In addition, some obvious violations of code are not enforced. For example, County Code specifies that hedges and fences surrounding properties are to be limited in height to ensure there is available light and adequate visibility; these height limitations are rarely enforced.

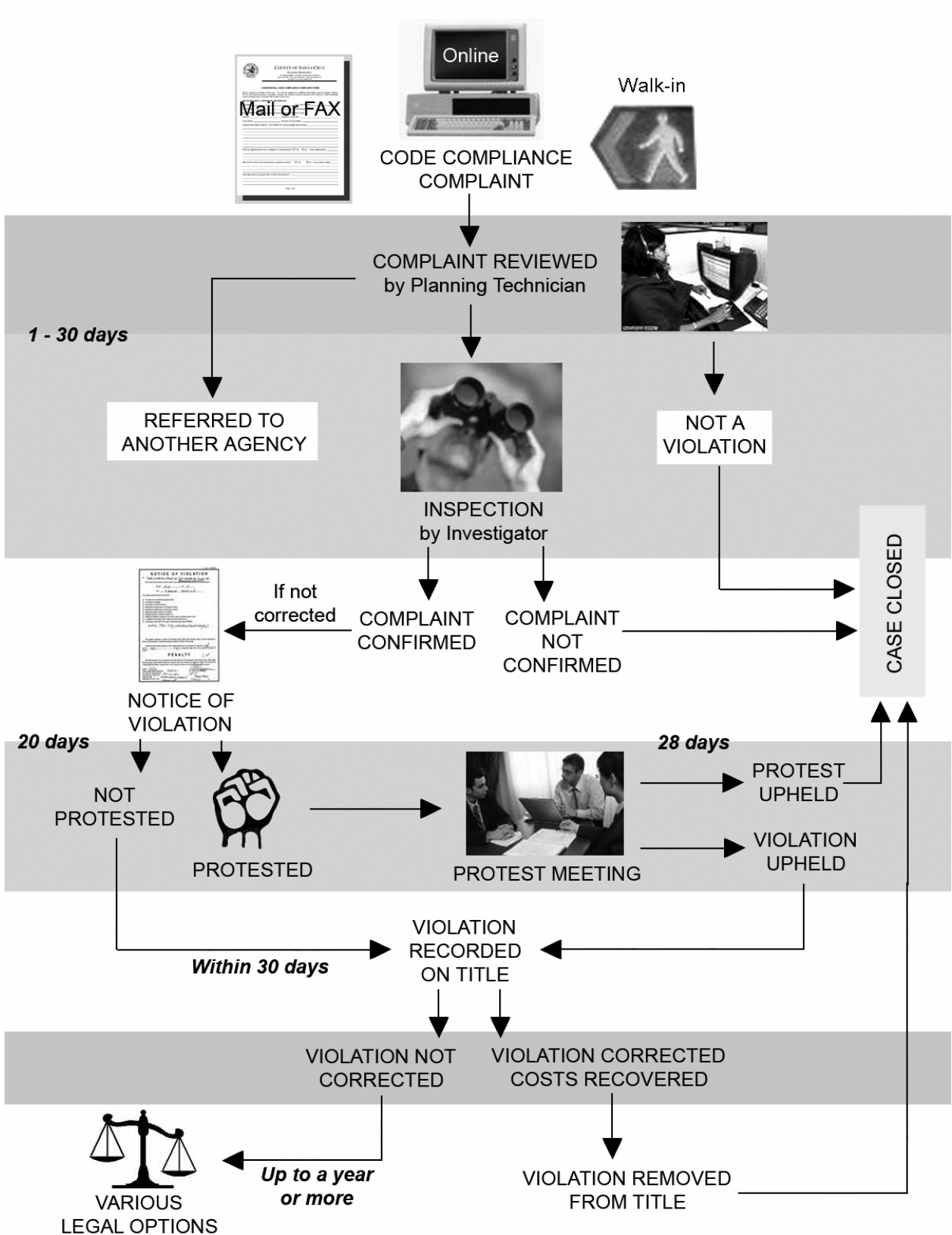
The Planning Department has developed a unique solution for the unrelenting workload, a novel compliance-by-mail process for commonly encountered low-priority violations, such as a recreational vehicle illegally used as a living unit.

Despite the steady growth in the number of unresolved complaints, the code compliance group is struggling to convert complaint data from its 1990s mainframe application to a 2000-vintage server-based system. Porting of old-system records to the new system awaits the completion of data management reports by the County's Information Systems Department. The reports rely on accurate data entry; however, we found many errors. Although mistakes are understandable given the heavy workload, the accuracy of future resource planning is dependent upon precise complaint data.

Given county government's ongoing efforts to fund its budget, it is not surprising to find the Planning Department has an unfilled code compliance investigator position, which will likely lose its funding for fiscal year 2008 - 2009. This jury recommends increasing staff with volunteers, reducing workload, or utilizing existing staff presently assigned to other areas.

A high volume of complaints combined with understaffing and savvy violators, results in non-enforcement of violations at some times, ponderous enforcement at others, but smooth complaint resolution much of the time. The following chart illustrates the code compliance complaint resolution process.

THE ROAD TO COMPLIANCE



Findings

1. The Planning Department currently uses two parallel data systems:
 - ALUS (Automated Land Use System), an older system, is used by the entire Planning Department and also the Assessor’s Office
 - The Hansen Information Technologies Permit Tracking System (HANSEN®), a newer system, has been in development since its purchase by the county more than five years ago and currently used only by the code compliance group. All new code violation complaints have been entered into the HANSEN® system since the middle of 2007.
2. County code violations do not always result in enforcement action.
 - The Planning Department documents some violations but does not enforce them, for example, violations of residential property fence height limits.

Response from the County: PARTIALLY AGREES.

In certain, limited situations such as side or rear yard fences that are slightly over the maximum height, no enforcement action is taken due to workload/caseload issues. Enforcement action for other minor violations may be limited to the issuance of a Notice of Violation (Red-tag) and recordation of the Notice of Violation on the property title. The Notice of Violation must be addressed when the property is sold or refinanced or when a permit is required for something else.

- Some enforcement decisions are based upon Board of Supervisors’ policy, such as the 2002 board policy specifying that structures built pre-1980 without permit will not be subject to enforcement.

Response from the County: PARTIALLY AGREES.

This policy directive is followed, but pertains solely to non-habitable structures.

- “No enforcement” is one complaint classification category in HANSEN®. Between March 29, 2007, and February 7, 2008, 11 percent of “no enforcement” decisions were based on policy adopted by the board; the remaining 89 percent were decided within the Planning Department without clear policy guidelines.

Response from the County: DISAGREES.

A portion of these “no enforcement” designations were open Service Requests (complaints) that had not yet been resolved. The Code Compliance staff initially selected “no enforcement” in the Hansen system for complaints that did not immediately result in the issuance of a Notice of Violation. It is common for a Code Compliance Investigator to conduct a site inspection and need to perform additional review of office records before determining whether, in fact, a violation exists.

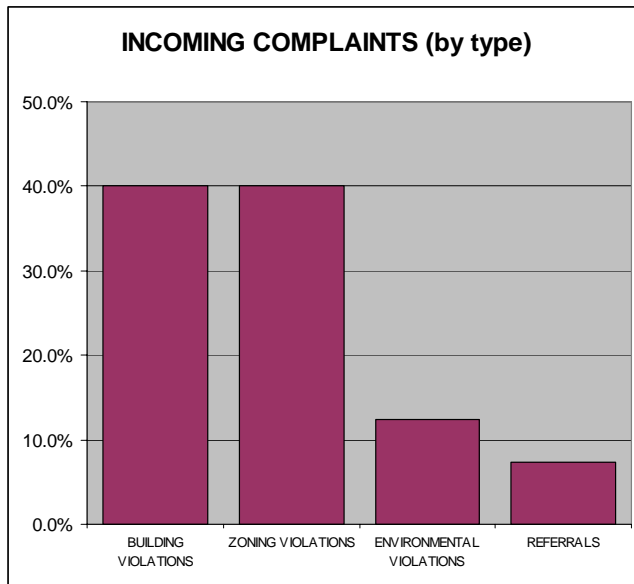
The remainder of the Service Requests referred to were actually resolved, with no further action, using the “no enforcement” designation. During the deliberations that ultimately led to adoption of the policy regarding structures built without permits prior to 1980, the Planning Department informed the Board that there is a category of violations that are so minor that no enforcement action on the part of the County is warranted. Planning Department management staff is involved in the decision-making process for each of the Service Requests that result in resolution using the “no enforcement action” coding. Examples of these determinations include side or rear yard fences that are a few inches over height, or a minor setback encroachment of a deck that would not otherwise require a Building Permit.

3. There is no formal policy requiring county building inspectors or code compliance investigators to report code violations they might chance upon.
 - The City of Watsonville requires home maintenance compliance, and its inspectors report violations they happen to see.
 - The City of Santa Cruz expects its staff to report obvious violations it encounters as a matter of policy.

Response from the County: DISAGREES.

The Planning Department Procedures Manual contains a Section related to the reporting of code violations by staff. That procedure, established in 2006, requires that certain types of violations be reported to the Code Compliance Section if encountered by any departmental employee during the course of their work. These include obvious and serious health and/or safety violations, significant environmental violations, and construction in-progress. The procedure contains specific definitions to provide further guidance to staff related to filing a code compliance complaint.

4. After a party files a complaint and receives an initial acknowledgement letter, the complainant is responsible for future contact with the Planning Department to determine the status of the violation.
5. It appears to be technically feasible to access the public information contained in the



code violation database and there is a plan to implement public online access before the end of 2009. Currently, members of the public wishing to learn the status of a code violation must telephone or visit the Planning Department.

Response from the County: AGREES.

6. The code compliance staff fields roughly 750 incoming complaints annually. About 300 of the complaints require continuing extensive investigation and action.

These represent approximately 40 percent of the total; the other 60 percent are either found to be invalid or are referred to another agency for appropriate action.

7. Each of the four full-time and one half-time code compliance investigators averages 66 new complaint investigations per year (not including those classified as “no violation,” “no enforcement action,” or “referred to other agency”), or fewer than two each week.
8. The code compliance group has positions for one typist/clerk, one planning technician, five code compliance investigators, and a principal planner. Additional assistance may also be provided by county financial and legal staff.

9. Earlier this year one investigator worked half time assisting the Planning Department's understaffed fiscal section.
10. One additional investigator position has been funded but will not be filled during 2008; funding for this position for 2009 is not guaranteed.
11. Staff responsible for data entry works part time performing Planning Department receptionist duties.
12. To help reduce the overall workload, follow-up with complainants is generally limited to a single written acknowledgment that the complaint has been received. Also the Planning Department does not take any enforcement action against some low-priority violations or investigate anonymous complaints.

Response from the County: PARTIALLY AGREES.

In addition to the written acknowledgment of the complaint, code enforcement staff frequently answer questions from complainants about the status of a case throughout the enforcement process. In addition, our Compliance-by-Mail Program requires the original complainant to verify that a violation has been in fact been resolved following receipt of a declaration from the property owner stating that the violation has been corrected. Planning staff makes contact with the complainant to verify resolution. Staff is also investigating whether it will be possible, within the Hansen system, to allow complainants to access the status of their code complaints on-line.

13. Compliance-by-mail form letters are sent to violators asking for voluntary cooperation in correcting some low-priority violations. Violators comply by returning a signed *Declaration and Affidavit of Correction*. Investigators may subsequently perform an inspection to confirm compliance. Violations currently handled this way include illegally inhabited mobile homes or campers, or people keeping too many cats or dogs. Compliance-by-mail was used in two percent of the complaints reviewed by the Grand Jury.
14. Despite two requests, the Grand Jury was not provided with precise data describing the size of the backlog of unresolved code compliance complaints or the rate at which this backlog is growing. One estimate provided was that for every 100 complaints entering the system 80 were being resolved, leaving 20 to accrue to the existing backlog. Based on this estimate and the annual number of complaints, the backlog of unresolved complaints would grow by about 150 a year.

Response from the County: DISAGREES.

We believe that the Department has now provided all information requested by the Grand Jury related to their investigation. There was an initial misunderstanding as to whether such a request was related to code compliance cases that reside in the older, ALUS system or in Hansen. Information on this topic of the backlog does exist for both systems and has since been provided to the Grand Jury.

There has been a dramatic reduction in the number of unresolved cases since the beginning of 2008 due, in large part, to the audit of the department's records related to the transition to the Hansen system. In addition, the department has implemented a systematic strategy for addressing the backlog and is confident that further reductions will occur.

15. There are many rules built into the current code violation resolution system that allow violators to delay complying with code requirements. Examples:

- It may take six weeks or more to get on the calendar for a protest hearing.
- Once the hearing is scheduled, the violator has the right to delay the hearing once.
- During the hearing, a violator may request a continuance, which the judge will usually grant.

16. In 2003, the Planning Department committed to the Board of Supervisors to develop written procedures for using the HANSEN® system. The code compliance group has established process mileposts and created a detailed flow chart, but there is no employee procedures manual for handling complaints.

Response from the County: DISAGREES.

The Grand Jury was provided with a high level summary page that represents the milestone flow within the Code Violation case type. This summary page was excerpted from a detailed user's manual that guides users through each milestone of a code case, from intake to completion. This manual, over 120 pages in length, was developed in July of 2007 and was distributed to each of the Code Compliance staff to assist them in their transition to using the Hansen system.

17. Except for a single summary report, the HANSEN® system was not generating data management reports as of March 1, 2008.

18. The Planning Department has requested at least 12 data management reports. As of April 11, 2008, only six of the reports originally requested the previous December were completed.

Response from the County: PARTIALLY AGREES.

Initially, the development of management and other system reports was a joint undertaking by the Planning Department and the County Information Services Department. However, after several months, it became clear that the development of these reports required a stronger technical background, and the Information Services Department took the lead in getting these reports into production. This resulted in some delays, but that has since changed.

The Planning Department has been working closely with the Information Services Department on the development of numerous reports utilizing the information contained within the Hansen system. These reports fall into three categories: letters and forms generated by the system, information related to Service Requests, and information related to Cases. To date, seventeen of these reports have been developed and are in use. Of these, nine fall into the category of "data management reports."

The remaining reports will be completed by Fall of 2008. In addition to these programmed reports, a great deal of management information can be generated on-demand using Hansen's search and reporting function that are built into the software.

19. The Planning Department has not asked for a routinely-generated report listing unresolved cases chronologically, with the oldest first.

Response from the County: DISAGREES.

It is true that the department does not get a listing of unresolved cases by the age of the case, because that is not how the caseload is managed: the oldest cases are not necessarily the most important. The department does track cases to ensure that appropriate actions are taken at the various stages of the enforcement process.

The Planning Department receives reports for various milestones within the Hansen system to ensure that cases are moving forward according to their established business practices. The department receives reports listing unresolved Service Requests to ensure that new complaints do not remain open ended. The department has requested a report listing cases where a red tag has been issued and the Notice of Violation has not been recorded on the property title within 35 days of the mailing of that Notice. Similarly, the department has requested a notification report when 60 days have elapsed since recordation of the Notice of Violation and that, if the violation has not been corrected, a stipulation must be developed and sent to the property owner specifying required compliance periods and penalties. Finally, the department has requested a report indicating the current milestone of all cases and number of days spent in that milestone. The report will be able to be sorted in any number of ways, including chronologically.

20. The Grand Jury reviewed 100 consecutively numbered complaints (spanning entry dates between August 10 and September 27, 2007) and found the following:
 - Almost 30 percent of them were incorrectly coded.
 - Nearly 18 percent of the complaints had activity dates earlier than the entry date. These differences mean that work was performed on the complaints before their entry into the HANSEN® system. The largest discrepancy between entry date and the activity date was more than two months.
 - The Planning Department received more code violations than it resolved. After six months, unresolved complaints outnumbered resolved complaints by 50 percent.
21. In April and May of 2008, the Planning Department presented several code change proposals to the Board of Supervisors. Some were approved and others were tabled for further study and discussion. While major focus of the changes was on rules for building second units, among the approved changes were several that are intended to reduce the burden on code enforcement by eliminating requirements judged unnecessary. For example, the County now intends to
 - exclude most demolition from requiring Coastal Commission approval.
 - allow installation of solar energy systems in the coastal zone without a discretionary permit.

Conclusions

1. A growing backlog of unresolved code compliance complaints can cause county residents to lose confidence in the effectiveness of the resolution process.
2. Some of the delay in complaint resolution is unavoidable because it is built into the system.
3. Without accurate data management reports, future department budget and staff planning decisions cannot be as informed as they should be.

4. Data management reports will not provide useful information if the underlying violation data entry is delayed, inaccurate or miscoded.

Recommendations

1. The Planning Department should
 - remove responsibilities other than code enforcement from existing code compliance staff.

Response from the County: HAS BEEN IMPLEMENTED.

The temporary reassignment of one of our Code Investigators to assist in the training of a new fiscal person was the result of unprecedented turnover in our fiscal division and the need to train incoming accounting personnel to support the Code program. This training has been completed and the individual has returned full time to Code Investigations.

In addition, all of the Planning Technicians in the Department, including the two staff presently assigned to our Code Program, assist in staffing the General Information Desk that is an integral part of our public counter operation. This time commitment ranges from 2-10 hours a week. While this assignment does divert a few hours away from the Code Program, it also ensures that Code staff are kept aware of all of the ongoing changes at our building and zoning counters, and also places them in a position to suggest operational changes that improve the interactions between code staff, counter staff, and property owners trying to resolve their violation(s). This arrangement will remain in place for the foreseeable future.

- recruit and train volunteers to assist the code compliance group.

Response from the County: WILL NOT BE IMPLEMENTED.

With the reassignment of an additional Planning Technician to the Code Compliance Section, sufficient staff resources are in place to assist the existing Investigators with caseload management. Two Planning Technicians assist the Investigators with in-office research and preparation of draft stipulated agreements and case hearing packets. It would not be appropriate to use volunteers to act as Code Investigators due to the technical training and expertise that is required to perform the job.

- consider expanding the compliance-by-mail program to include additional low-priority violations.

Response from the County: REQUIRES FURTHER ANALYSIS.

The compliance-by-mail program is used for violations that do not require issuance of a permit or a field investigation to verify the existence of a violation. In addition, correction of the violation must be able to be verified by the complainant. Initially, the Program was limited to illegal occupation of trailers and RV's. In the last year, it was expanded to include certain animal keeping violations. We are currently evaluating whether this approach to code enforcement can be further expanded and will implement this expansion, if deemed appropriate, no later than the end of the 2008 calendar year.

- create a list of code violations not currently being enforced and determine if any of the most commonly received complaints represent violations that can be added to the list.

Response from the County: REQUIRES FURTHER ANALYSIS.

Certain minor code violations may not warrant enforcement action. Quite often, factors specific to the particular situation are taken into account when making a determination as to whether or not enforcement action will be taken. The Department will evaluate the range of minor violations that it encounters to determine whether, regardless of other factors, any of them qualify for such treatment. This evaluation will be completed in early 2009.

2. The Planning Department should

- enter data into the HANSEN® system daily, no longer than two days after receipt.

Response from the County: HAS BEEN IMPLEMENTED.

- ensure that a code compliance supervisor reviews service requests (HANSEN®’s terminology for complaints) for accurate data entry on a regular basis. If errors are encountered, additional staff training should be provided.

Response from the County: HAS BEEN IMPLEMENTED.

- generate monthly reports that detail the total number of code complaints, the number deemed valid, how many were resolved, and the size of unresolved complaint backlog. These reports should be available for review at any time by the Planning Director and the Board of Supervisors.

Response from the County: HAS BEEN IMPLEMENTED.

This information may be viewed “on demand” by any user of the Hansen system.

- create a monthly report listing all unresolved complaints in reverse order by date. These reports should be reviewed by code compliance staff monthly and by the Planning Director quarterly.

Response from the County: HAS BEEN IMPLEMENTED.

- make every effort to promptly finalize complaints to avoid building an unmanageable backlog.

Response from the County: HAS BEEN IMPLEMENTED.

3. To create consistency among code compliance staff, Planning Department management should provide a detailed, written procedures manual, including targets for the amount of time allowed for each step in the complaint resolution process.

Response from the County: HAS BEEN IMPLEMENTED.

Responses Required

Respondent	Findings	Recommendations	Respond Within / Respond By
County of Santa Cruz Board of Supervisors	2, 3, 5, 12, 14, 16	1 - 3	60 days September 1, 2008

County of Santa Cruz Planning Department	2, 3, 5, 12, 14, 16, 18, 19	1 – 3	90 days October 1, 2008
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Sources

- City of Santa Cruz, Department of Planning and Community Development Staff.
- City of Scotts Valley Staff.
- City of Watsonville, Community Development Department Staff.
- County of Santa Cruz, Planning Department Management and Staff.
- County of Santa Cruz, Title 13 Planning and Zoning Regulations, Chapter 13.10.525;
Regulations for fences and retaining walls.
- County of Santa Cruz, code violation complaint data from HANSEN® Information Technologies Permit Tracking System.
- County of Santa Cruz code compliance website:
http://www.sccoplanning.com/html/codecomp/index_codecomp.htm
- County of Santa Cruz Planning Department form letters: *Alleged Zoning Code Violation*, re: Chapter 13.10.322(b) and Chapter 13.10.683.
- County of Santa Cruz Planning Department form letter: *Alleged Building, Zoning or Environmental Code Violation.*
- Letter from Planning Director, Alvin D. James, and County Administrative Officer, Susan A. Mauriello, to the County of Santa Cruz Board of Supervisors, *Re: Response to Recommendations Concerning Structural Changes to Permit Processing in Santa Cruz County*, November 27, 2002.
- Letter from Planning Director, Tom Burns, and County Administrative Officer, Susan A. Mauriello, to the County of Santa Cruz Board of Supervisors, *Report on HANSEN® Information Technologies Permit Tracking System software implementation to replace the Automated Land Use System (ALUS)*, November 24, 2003.
- Proceedings of the County of Santa Cruz Board of Supervisors, Volume 2002, Number 19, 72.1, June 25, 2002.

