



## STAFF REPORT

Approved and Forwarded to the City Council:

Bryan Montgomery, City Manager

Date: March 24, 2016  
To: Bryan H. Montgomery, City Manager  
From: Troy Edgell, Code Enforcement Manager  
Subject: Resolution Confirming the Costs for Abatement of Weeds and Debris at APN 033-090-046 (Vacant Lot on Hill Ave)

### Background and Analysis

The Code Enforcement Division is charged with enforcing those provisions that deal primarily with the failure of a property owner to care for and maintain their property, so much so, that it becomes a public nuisance.

On 9 September 2015 Code Enforcement received a complaint regarding overgrown weeds, trash, debris, and someone living in an RV on a Hill Avenue vacant lot. Code Enforcement investigated and sent a Correction Notice requesting the RV be removed and the weeds, trash, and debris abated. Upon re-inspection on 21 September 2015 the RV was removed. The other violations were still in existence. Over a period of six (6) months seven (7) formal requests for voluntary abatement of the weed, trash, and debris violations were sent to the legal property owner and went without correction.

On 7 January 2016 a letter informing the owner that an Order to Abate (OTA) was being prepared and the owner had 30 days to either seek an appeal or cure the violation. The OTA was sent via certified mail and signed for on 12 January 2016 by an occupant at the address of the legal owner of record.

In this specific case Code Enforcement erred on the side caution. Weed and Refuse abatements of vacant properties may be performed after a ten (10) day notice to cure expires. However, this property owner was provided a much greater period to cure because OMC 4.29 (Neighborhood Preservation) guidelines were used vice the less restrictive OMC 4.26 (Weed and Refuse) guidelines. If OMC 4.26 was used then the owner would only be provided 10 days to cure the violation and 7 days to appeal.

The property was re-inspected 11 February 2016 and the nuisances were not abated. On 8 March 2016 a Third Party contractor performed the abatement of the nuisance.

The purpose of this resolution is to ensure the City's expenses for performing the abatement are recovered.

**Subject:** Resolution Confirming the Costs for the Abatement of a Public Nuisance and Directing a Special Assessment and Lien Upon such Parcel

**Date:** January 19, 2016

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Direct assessment collections of abatements must be confirmed by the City Council. To ensure this action takes place, we are seeking confirmation of the abatement and associated costs as required by OMC 4.26.016.

Per OMC 4.26.016, after completion of any abatement work performed, the computation of costs, including administrative and legal costs, shall be transmitted to the City Council. The owner is given 10 calendar days' notice, by certified mail or registered mail, of the hearing at which the Council will consider the costs. The owner may file an appeal of the costs within 7 calendar days of the date on which the notice was mailed; the appeal shall state the grounds for the appeal. The Council shall hold a hearing to confirm the costs and consider any appeal. Its determination shall be final, and if confirmed by resolution, the costs shall become a special assessment against and lien upon the property. The proposed date for this hearing, if necessary, or confirmation of costs is 12 April 2016.

### **Fiscal Impact**

Adoption of the Resolution will authorize Staff to invoice the property owner and provide 30 days for collection of amount due. If invoice is not paid, the Resolution allows the City to place a lien on the property and collect the amount due, if necessary, via direct assessment on the 2016-2017 tax roll.

### **Recommendation**

Staff recommends the Council adopt the attached Resolution confirming the costs for abatement of the public nuisance and directing a special assessment and lien upon such parcel if the amount due is not paid in full by 13 May 2016.

### **Attachments**

Resolution  
Cost Report

**RESOLUTION NO. \_\_-16**

**A RESOLUTION OF THE OAKLEY CITY COUNCIL CONFIRMING THE COST FOR ABATEMENT OF A PUBLIC NUISANCE AND DIRECTING A SPECIAL ASSESSMENT AND LIEN UPON SAID PARCEL**

**WHEREAS**, the Oakley Municipal Code establishes standards in Law to protect the health and safety of the Community; and

**WHEREAS**, the City's Code Enforcement Division is tasked with addressing violations of these codes, so as to ensure the health and safety of the Community; and

**WHEREAS**, the property listed in Exhibit A attached had violations which required abatement by the City through the Code Enforcement Division; and

**WHEREAS**, the cost incurred by the City to abate the violations is shown in the Exhibit, and such cost remains unreimbursed to date; and

**WHEREAS**, the City seeks to confirm this cost, and if it remains unpaid after May 13, 2016, seeks authorization to lien the property and collect the amount due via direct assessment on the Fiscal Year 2016-2017 property tax roll.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Oakley hereby confirms the cost for said property, and if remaining unreimbursed after May 13, 2016, authorizes Staff to lien the property and submit it as a direct assessment for collection on the 2015-2016 property tax roll.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 12<sup>th</sup> day of April, 2016 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

## HILL AVE VACANT LOT

APN: 033-090-046

OWNER: KHAN IRFAN 41439 TIMBER CREEK TER. FREMONT, CA 94539

## COST REPORT

Case CE-15-1355

ADDRESS	CONTRACTOR COST*	ADMINISTRATIVE COSTS**	CITY CLERK/PUBLICATIONS***	TOTAL COST
APN: 033-090-046 OAKLEY, CA 94561	\$2,200.00	(\$95.43/HOUR X 4.5 Hours = \$429.44	(\$122.81/HOUR X .5 HOURS = \$61.41 PUBLICATION COST: \$130.72 TOTAL: \$192.13	\$2,821.57

\*Invoice attached

\*\*Administrative costs include 4.5 hours of administrative time for the period 9 September 2015 through 8 March 2016 at the hourly rate of \$95.43 (as identified in the 2015/2016 Overhead and Inter-fund Charges Schedule), including site visits to the property, receipts and responses to complaints, numerous attempts via certified and regular mail seeking voluntary compliance, travel to and from property to re-inspect for compliance, meetings with contractors to discuss scope of work, perform post-work, taking and printing photographs before, during, and after abatement work, writing and editing Code Enforcement reports.

\*\*\*City Clerk costs include researching and publishing Order to Abate. Publication charges available on demand.