



MEETING DATE: 11/17/08

ITEM NO: 5

COUNCIL AGENDA REPORT

DATE: NOVEMBER 3, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: HAZARDOUS VEGETATION ABATEMENT (WEEDS)

- A. ADOPT RESOLUTION DECLARING HAZARDOUS VEGETATION (WEEDS) A PUBLIC NUISANCE AND PROVIDING FOR THEIR ABATEMENT AND SETTING A PUBLIC HEARING IN ORDER TO HEAR PROTESTS
- B. SET JANUARY 20, 2009 AS A PUBLIC HEARING DATE ON THIS ANNUAL PROGRAM

RECOMMENDATION:

1. Adopt resolution (Attachment 1) declaring hazardous vegetation (weeds) a public nuisance and providing for their abatement and setting a public hearing in order to hear protests.
2. Set January 20, 2009, as a public hearing date on this annual program.

BACKGROUND:

Pursuant to authority granted in Section 14890 of the California Health and Safety Code, the County's Hazardous Vegetation Program is administered by the County Agricultural Commissioner. The County Agricultural Commissioner has the same authority to abate nuisances as the County Fire Marshal. The Fire Marshal's Office, however, will continue to provide consultation and assistance to the program.

DISCUSSION:

Hazardous vegetation (weeds) pose a fire threat during the summer months and property owners should control them. To eliminate hazardous vegetation (weeds), the Town historically has adopted a Hazardous Vegetation (Weed) Abatement Program.

PREPARED BY: TODD CAPURSO
Director of Parks and Public Works

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Reviewed by: PSS Assistant Town Manager OK Town Attorney
____ Clerk Administrator SC Finance ____ Community Development

The time table is in keeping with generally accepted procedures throughout Santa Clara County as recommended by the Department of Agriculture and Environmental Management.

Under the county program, property owners with hazardous vegetation (weed) problems are notified and given an opportunity to abate the hazardous vegetation (weeds). If the problem is not addressed, the county contractor takes care of the hazardous vegetation (weeds) and the cost is added to the owner's property tax bill.

A complete schedule of the program is as follows:

- | | |
|-------------------|--|
| November 17, 2008 | Town Council passes a resolution declaring hazardous vegetation (weeds) a nuisance and sets a public hearing for January 20, 2009. |
| December 1, 2008 | Department of Agriculture and Environmental Management prepares a list of properties needing abatement, sends notice to owners to abate the hazardous vegetation (weeds), and notifies owners regarding time and place of the Public Hearing. |
| December 3, 2008 | Clerk Administrator publishes twice and posts in three locations "Notice of Public Hearing to destroy Hazardous Vegetation (weeds) and Notice of Passage of Resolution" - (Attachment 2) - (Publish December 10, 2008 and December 17, 2008). |
| January 20, 2009 | Public Hearing - Town Council hears protests and passes resolution allowing or overruling objections and ordering abatement as appropriate and specifying the method for abatement. |
| April 15, 2009 | Department of Agriculture and Environmental Management starts to inspect Los Gatos properties. Properties which have not been cleared of hazardous vegetation will be abated by a contractor for the Department of Agriculture and Environmental Management. |
| July 1, 2009 | Clerk Administrator publishes twice and posts in three locations notice of August 3, 2009 Public Hearing for Town Council to hear protests to proposed charges. (Publish July 8, 2009 and July 15, 2009). |
| August 3, 2009 | Town Council public hearing on any proposed hazardous vegetation (weed) abatement charges; Council resolution confirming or modifying assessments. |
| August 4, 2009 | Clerk Administrator returns list of charges to the Department of Agriculture and Environmental Management for filing with County Auditor as a special assessment. |

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MAYOR AND TOWN COUNCIL

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CONCLUSION:

This is a standard procedure of the Town of Los Gatos. It has been enacted to reduce fire danger.

FISCAL IMPACT:

Funds are provided in the FY 2008-09 Budget (Program 5050) to cover the cost of publishing the legal notice (Estimate: \$260.00).

Attachments:

1. Resolution Declaring Hazardous Vegetation (Weeds) a Public Nuisance.
2. Notice of Public Hearing to Destroy Weeds.

Distribution:

Greg Van Wassenhove, Agricultural Commissioner, County of Santa Clara Department of Agriculture and Environmental Management, Division of Hazardous Vegetation, 1553 Berger Drive, Building #1, San Jose, CA 95112

Moe Kumre, Weed Abatement Coordinator, County of Santa Clara Department of Agriculture and Environmental Management, Weed Abatement Division, 1553 Berger Drive, Building #1, San Jose, CA 95112

RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DECLARING HAZARDOUS VEGETATION (WEEDS) A PUBLIC NUISANCE AND PROVIDING FOR THEIR ABATEMENT

WHEREAS, Section 39501 and Section 39502 of the Government Code of the State of California authorize the Town of Los Gatos to prescribe a procedure for compelling the owner, lessees or occupant of buildings, grounds, or lots to remove hazardous vegetation (weeds) from such buildings or grounds and adjacent sidewalks, and, upon his failure to do so, to remove such hazardous vegetation (weeds) at his expense, making the cost thereof a lien upon such property; and

WHEREAS, the Town of Los Gatos, by ordinance, has adopted such a procedure, codified in Chapter 11, Article 2, Sections 11.20.010 through 11.20.045 of the Los Gatos Town Code.

RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town Council hereby finds that hazardous vegetation "weeds," as that term is defined in Section 11.20.010, are growing upon and adjacent to private property within the Town of Los Gatos, and declares that all hazardous vegetation (weeds) growing upon any private property or properties, and in any sidewalk street, or alley within the Town of Los Gatos are a public nuisance and should be abated. The Director of Parks and Public Works ("the Director") shall act as the Town Engineer for all purposes set forth in Chapter 11, Article 2, and shall give notice of the passage of this resolution.

FURTHER RESOLVED, that unless such nuisance be abated by the destruction or removal of such hazardous vegetation (weeds) within thirty (30) days after the adoption of this resolution, or within the time specified in a written agreement with the Director, or his representative, whichever time shall be later, as provided in Chapter 11, Article 2, of the Los Gatos Town Code, the Town of Los Gatos shall cause such nuisance to be abated, and the expense thereof assessed upon the lots and lands from which, or in the front and rear of which, such hazardous vegetation (weeds) shall have been destroyed or removed, such expense constituting a lien upon such lots or lands until paid, and to be collected upon the next tax roll upon which general municipal taxes are collected.

FURTHER RESOLVED, that the Director shall execute a "Notice to Destroy Hazardous Vegetation (Weeds)" in the form set forth in Section 11.20.020(b) and shall cause same to be published and posted in the manner prescribed by Section 11.20.020(c).

FURTHER RESOLVED, that on the 20th day of January, 2009, at a meeting of the Town Council beginning at 7:00 P.M. in the Council Chambers of the Civic Center, 110 E. Main Street, Los Gatos, California, a public hearing will be held during which all property owners in the Town of Los Gatos having any objections to the proposed destruction or removal of such hazardous vegetation (weeds) will be heard and given due consideration.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 17th day of November, 2008 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

TOWN OF LOS GATOS

OFFICE OF THE CLERK ADMINISTRATOR

**NOTICE OF PUBLIC HEARING
TO DESTROY WEEDS**

NOTICE IS HEREBY GIVEN that on November 17, 2008, pursuant to the provisions of Section 11.20.020 of the Town Code of the Town of Los Gatos, the Town Council of said Town adopted a Resolution (2008-) declaring that all weeds growing upon any private property or in any street, sidewalk or alley, as defined in Section 11.20.010 of such Code, constitute a public nuisance, which nuisance must be abated by the destruction or removal thereof.

NOTICE IS FURTHER GIVEN that property owners shall, within thirty (30) days after the adoption of such resolution, or within the time specified in a written agreement with the Director of Parks and Public Works of the Town of Los Gatos, or the Director of Parks and Public Works' representative, whichever time shall be later, remove all such weeds from their property, the abutting sidewalks, and the abutting half of the street in front, and alleys, if any, behind such property, and between the lot lines thereof as extended, or such weeds will be destroyed or removed and such nuisance abated by the Town of Los Gatos, in which case the cost of such destruction or removal will be assessed upon the lots and lands from which, or from the front or rear of which, such weeds shall have been destroyed or removed, and such cost will constitute a lien upon such lots or lands until paid; and will be collected upon the next tax roll upon which general municipal taxes are collected. All property owners having any objections to the proposed destruction or removal of such weeds are hereby notified to attend a meeting of the Town Council of such Town to be held in the Council Chambers of said Town, **at 110 East Main Street, TUESDAY, JANUARY 20, 2009, AT 7:00 P.M.** or as soon thereafter as the matter can be heard, when and where their objections will be heard and given due consideration.

**A COMPLETE RECORD OF THE ABOVE IS ON FILE IN THE OFFICE
OF THE CLERK ADMINISTRATOR**

/s/ Jackie Rose

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS

PUB: December 10, 2008 and December 17, 2008