



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works
Department No.: 054
For Agenda Of: August 14, 2012
Placement: Departmental
Estimated Tme: 20 min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Scott D. McGolpin, Public Works Director, 568-3010
Director(s)
Contact Info: Mark Schleich, Public Works Deputy Director, 882-3603
SUBJECT: Appeal of Hearing Officer Decision Regarding Violations Under Chapter 23,
Article III (Abandoned Vehicles)
Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions: That the Board of Supervisors:

- a) Conduct a hearing and affirm the Decision rendered by the Hearing Officer (see Attachment B) which directs the property owner at 925 Ballard Canyon Road (Mr. John Humen) to choose and pursue one of the following actions within 15 days:
 - i. Remove the three vehicles identified in the violation notice issued on March 1, 2012 (AVA-001-2012; AVA-002-2012; AVA-003-2012); or
 - ii. Demonstrate the vehicles' operability, in person, to the satisfaction of the designated Code Enforcement Officer.
- b) If property owner does not abide by (i) or (ii) above within 15 days of this public hearing date, authorize staff to contract for a third party to abate and dispose of the vehicles identified in the violation notice issued on March 1, 2012 (AVA-001-2012; AVA-002-2012; AVA-003-2012) and assess appropriate administrative and vehicle removal costs as permitted under County Code sections 23-27 and 23-29 and Government Code section 25845.

Summary Text:

Chapter 23, Article III of the Santa Barbara County Code authorizes the Board to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof from private property as public nuisances. In November 2011, the Resource Recovery & Waste Management Division of the Public Works Department received two separate complaints regarding three vehicles located on 925 Ballard Canyon Road, Solvang, California that the complainants believed were not operable and were visible from the

roadway or adjoining properties. A County Code Enforcement Officer made a roadway inspection and the three vehicles appear to be inoperable. County staff has sent a series of correspondence and notices to the property owner requesting a site visit for the owner to prove the operability of the vehicles, and these requests have not been granted.

The property owner received a Notice of Intention to Abate and subsequently requested a hearing with a Hearing Officer to appeal the Notice. A hearing was held on April 11, 2012 as requested, however, the property owner elected to submit a written statement instead of appearing. After considering all the evidence presented, the Hearing Officer issued a decision directing the property owner to either prove the operability of the vehicles in the presence of a Code Enforcement Officer, or remove the three vehicles from his property. The property owner is now appealing the decision of the Hearing Officer to your Board, as allowed under Section 23-26 of Article III of Chapter 23 of the County Code. Staff recommends that your Board affirm the decision of the Hearing Officer in order to abate the nuisance. Overturning the decision of the Hearing Officer will allow the current situation to continue into the future.

Background:

Chapter 23, Article III of the Santa Barbara County Code authorizes the Board to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof from private property as public nuisances. In November 2011, the Resource Recovery & Waste Management Division of the Public Works Department received two separate complaints regarding three vehicles located on 925 Ballard Canyon Road, Solvang, California that the complainants believed were not operable and were visible from the roadway or adjoining properties. Based on a roadside visual inspection conducted by a Code Enforcement Officer, it appeared that there was a violation involving three vehicles on the property. A correction notice was sent in December 2011 to the property owner detailing the nature of the potential violations and requesting that the owner contact the Code Enforcement Officer to schedule a site visit to demonstrate the operability or inoperability of the vehicles, per the Officer's standard procedure. There followed a series of correspondence, the result of which did not include setting up a site visit where the property owner was able to demonstrate the condition of the vehicles.

In March 2012, the Division issued a Notice of Intention to Abate indicating that if the property owner did not prove operability of the vehicles by a specific date, the Division had the ability to tow the vehicles in question. The notice also included Section 23-24 of the County Code which indicates a property owner can request a hearing with a Hearing Officer on the question of the abatement and removal of the vehicles or the parts thereof. On March 12, 2012 the Division received a request for a hearing from the property owner to discuss the issues cited in the Notice of Intention to Abate. A public hearing was set for April 11, 2012 and the property owner was notified of the location and time of the hearing. On April 10, 2012, the property owner delivered a written statement to be considered in lieu of attending the hearing, as allowed under Section 23-25 of Article III of Chapter 23 of the County Code. A hearing was held on April 11, 2012 and the information submitted by the property owner was considered and entered into the public record as Exhibit A and Exhibit B. The Code Enforcement Officer provided testimony as well as submitted copies of correspondence with the property owner as well as photographs of the site labeled as Exhibits 1-16. A summary of the hearing is also included as Attachment A.

Attending the hearing were the Hearing Officer, the Code Enforcement Officer, staff from the Division and two representatives from County Counsel; one to represent the Hearing Officer and one to represent the Code Enforcement Officer. The potential violations relate to Section 23-16 of the Code that indicates an inoperable vehicle on public or private property is considered a public nuisance. The section does not apply (per Section 23-17) if

- a. the vehicle is completely enclosed within a building where it is not visible from the street or other public or private property;
- b. the vehicle is not plainly visible from a highway, or from other property open to the public or from adjoining private property; or
- c. the vehicle is connected with the business of a licensed dismantler, vehicle dealer, a junk dealer ... or when such storage is necessary to the operation of a lawfully conducted business or commercial enterprise.

None of these exceptions apply to this property. As depicted on the last page of Exhibit 16 (the most recent photos of the site), there are three vehicles that appear inoperable and they are visible from the roadway as well as adjoining properties.

Pursuant to section 23-26 of the County Code, your Board may affirm, amend or reverse the Decision of the Hearing Officer. If your Board chooses to reverse the Decision issued by the Hearing Officer, the potential nuisance will not be abated. Staff recommends that your Board affirm the Decision issued by the Hearing Officer provided under "Recommendations".

Performance Measure: None

Fiscal and Facilities Impacts: Budgeted: Yes, FY 12/13 budget includes limited costs for remediation that can be subsequently reimbursed.

Fiscal Analysis:

Narrative: Pursuant to Section 23-29 of Article III of Chapter 23 of the County Code, administrative costs and the cost of removal of the vehicles can be charged against the property owner. If the property owner does not comply with the direction provided by the Board and County staff is required to abate the vehicles, County staff will coordinate the removal of the vehicles and bill the property owner for its administrative and removal costs. If the property owner does not pay the invoiced costs within 30 days of the invoice, such costs will be assessed against the parcel of land pursuant to County Code sections 23-27 and 23-29 and Government Code section 25845 and shall be transmitted to the tax collector for collection.

Staffing Impacts:

None

Special Instructions:

Pursuant to section 23-26 of Chapter 23, Article III of the County Code, Clerk to please provide written notice of the time and place of the hearing to the appeal hearing applicant, Mr. John Humen. Please forward a copy of the Minute Order to Leslie Wells, Resource Recovery & Waste Management Division.

Attachments:

Exhibit A: Documentation submitted by property owner (Mr. Humen) on April 10, 2012 titled “Clear and Convincing Evidence by Dated Photographic Documentation”

Exhibit B: Documentation submitted by property owner (Mr. Humen) on April 10, 2012 titled “Declaration of Facts by Law and Documentation – Conclusive Evidence”

Exhibits 1 – 16: Documentation submitted by Code Enforcement Officer on April 11, 2012 (correspondence and photographs associated with potential violations)

Attachment A: Summary of April 11, 2012 Hearing

Attachment B: Copy of Hearing Officer Decision dated April 16, 2012

Authored by: Leslie Wells, Program Manager, ext. 3611