

**CITY OF DANA POINT
AGENDA REPORT**

DATE: APRIL 27, 2005

TO: CITY MANAGER/CITY COUNCIL

FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT

**SUBJECT: 2005 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS
(FF#0240-50/WEED ABATEMENT/CONTROL/WEED ABATEMENT PROGRAM /2005)**

RECOMMENDED ACTION: That the City Council hear any objections regarding weed abatement and thereafter adopt the attached Resolution authorizing Staff to abate weeds upon public or private property, and to report back to the City Council on July 27, 2005, with an itemized report detailing abatement cost.

DISCUSSION: At the March 9, 2005 meeting, the City Council adopted the first of three resolutions related to citywide weed abatement program. That Resolution declared that weeds were a nuisance and directed the Code Enforcement personnel to send abatement notices to properties shown on the adopted Resolution. The Resolution also declared that a hearing would be held in order to hear objections to the abatement notice.

Each of the property owners on the list received a letter regarding weed abatement on their parcel, along with hearing notice for tonight's meeting. The department has received approximately fifteen (15) calls regarding the program.

The Resolution under consideration this evening is the second phase of the weed abatement program, and accomplishes three specific objectives. The first objective directs the Community Development Director to commence with the abatement process. Any property, which has not abated weeds on-site, will be completed by the City or its designated contractor. The Resolution grants the City the authority to enter on private property in order to abate weeds.

The second objective allows affected property owners to raise objections to the weed abatement program. The City Council may entertain these objections or overrule them and proceed with abatement. The third objective requires the City to account for costs related to the weed abatement program, and present the cost report to the City Council at its regular meeting on July 27, 2005.

The costs will be assessed against each designated property that did not abate weeds, and will appear as an assessment on the property tax bill.

Two Resolutions have been attached for City Council consideration, with the adoption of one Resolution depending on the circumstances of the hearing. The options include:

- 1) A Resolution wherein objections have been presented and overruled; and
- 2) A Resolution where no objections have been presented for the City Council.

NOTIFICATION AND FOLLOW-UP: The City Clerk’s office posted notices of the meeting tonight. Also notice of tonight’s meeting was included in the letter sent to property owners on April 8, 2005. One Code Enforcement Officer will follow up with second notices to property owners that have not removed weeds from their property, including clearing weeds from property with a City contractor if necessary.

FISCAL IMPACT: The City Council has allocated a total of seven thousand, five hundred dollars (\$7,500.00) for weed abatement purposes. Although the City will pay up-front costs to the contractor, these costs will be reimbursed by the special assessment for those owners who do not abate the weeds on their properties.

ALTERNATIVE ACTIONS: None.

ACTION DOCUMENTS:

A.	Resolution to abate weeds, with objections	3
B.	Resolution to abate weeds, with no objections	6

RESOLUTION NO. 05-04-27-__**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA, OVERRULING OBJECTIONS
AND PROCEEDING WITH WEED ABATEMENT**

WHEREAS, the City Council adopted Resolution No. 05-03-09-01 on March 9, 2005, which by its terms the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse, and dirt upon streets, highways, sidewalks, parkways, and private property in the City; and,

WHEREAS, a hearing was held on April 27, 2005, to hear objections and protest to the proposed removal of weeds, rubbish, refuse and dirt.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point does hereby resolve, adopt, determine, and order as follows:

SECTION 1. On March 9, 2005, the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon the streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse and dirt upon streets, highways, sidewalks, parkways, and private property in the City, all as more particularly described in Resolution No. 05-03-09-01 adopted on March 9, 2005.

SECTION 2. The Council fixed Wednesday, April 27, 2005, at the hour of 6:00 p.m., in the Dana Point Council Chambers, as the time and place for hearing all objections and protests to the proposal of removal of weeds, rubbish, refuse and dirt, and the Director of Community Development was designated as the person to perform the duties imposed by Government Code Sections 35960-35988, and did, prepare notices to destroy weeds and remove rubbish, refuse, and dirt; the City Clerk was directed under Government Code Section 35967.1 to and did cause copies of notice to be mailed to all persons owning property described in Resolution No. 05-03-09-01 in the time, form and manner prescribed by law.

SECTION 3. The City Council held a hearing on April 27, 2005 to hear objections and protests either written or oral to the proposed removal of weeds, rubbish, refuse and dirt, and the hearing was closed on April 27th, 2005 with all objections and protests overruled.

SECTION 4. The Director of Community Development/Designee is ordered to abate the nuisance declared by Resolution No. 05-03-09-01 by having the weeds, rubbish, refuse, and dirt removed and for this purpose, the Director of Community

Development/Designee may enter upon private property to abate the nuisance. Before the Director of Community Development/Designee arrives, any property owner may remove the weeds, rubbish, refuse and dirt at his own expense.

SECTION 5. The Director of Community Development/Designee or the contractor awarded the work, as the case may be, shall keep an account of the cost of abatement in front of or on each separate lot or parcel of land or both, where the work is done and shall submit to the City Council an itemized written report on Wednesday, July 27, 2005 at the hour of 6:00 p.m., in the Dana Point Council Chambers, 33282 Street of Golden Lantern, Dana Point, California, which date, time and place of hearing of such report is hereby fixed for the hearing of any objections of any of the property owners liable to be assessed for work of abatement.

SECTION 6. The Director of Community Development/Designee shall post a true and correct copy of said report on or near the chamber door of this Council for at least three (3) days, prior to its submission to the Council, with a notice of the time and place where the report will be submitted to the Council for confirmation.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of April 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

SHARIE APODACA, INTERIM CITY CLERK

RESOLUTION NO. 05-04-27-__

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF DANA POINT)

I, SHARIE APODACA, Interim City Clerk, of the City Dana Point, California DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 05-04-27-__ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof, held on the 27th day of April, 2005 by the following vote

AYES:

NOES:

ABSENT:

(SEAL)

SHARIE APODACA, INTERIM CITY CLERK

RESOLUTION NO. 05-04-27-__**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS
AND PROCEEDING WITH WEED ABATEMENT**

WHEREAS, the City Council adopted Resolution 05-03-09-01 on March 9, 2005, which by its terms the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse, and dirt upon streets, highways, sidewalks, parkways, and private property in the City; and,

WHEREAS, a hearing was held on April 27, 2005, to hear objections and protests to the proposed removal of weeds, rubbish, refuse and dirt, and with no objection made or presented either in writing or orally; and

WHEREAS, no other objections were made or filed; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point does hereby resolve, adopt, determine, and order as follows:

SECTION 1. On March 9, 2005, the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon the streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse and dirt upon streets, highways, sidewalks, parkways, and private property in the City, all as more particularly described in Resolution No 05-03-09-01 adopted on March 9, 2005.

SECTION 2. The Council fixed Wednesday, April 27, 2005, at the hour of 6:00 p.m., in the Dana Point Council Chambers, as the time and place for hearing all objections and protests to the proposal of removal of weeds, rubbish, refuse and dirt, and the Director of Community Development was designated as the person to perform the duties imposed by Government Code Sections 35960-35988, and did prepare notices to destroy weeds and remove rubbish, refuse and dirt; the City Clerk was directed under Government Code Section 35967.1 to and did cause copies of the notice to be mailed to all persons owning property described in Resolution No. 05-03-09-01 in the time, form and manner prescribed by law.

SECTION 3. The City Council held a hearing on April 27, 2005, to hear objections and protests either written or oral to the proposed removal of weeds, rubbish, refuse and dirt and no objections or protest were presented and the hearing was closed on April 27, 2005.

SECTION 4. The Director of Community Development/Designee is ordered to abate the nuisance declared by Resolution No. 05-03-09-01 by having the weeds, rubbish, refuse, and dirt removed and for this purpose, the director of Community Development/Designee may enter upon private property to abate the nuisance. Before the Director of community Development/Designee arrives, any property owner may remove the weeds, rubbish, refuse and dirt at his own expense.

SECTION 5. The Director of Community Development/Designee or the contractor awarded the work, as the case may be, shall keep an account of the cost of abatement in front of or on each separate lot or parcel of land or both, where the work is done and shall submit to the City Council an itemized written report on Wednesday, July 27, 2005 at the hour of 6:00 p.m. in the Dana Point Council Chambers. 33282 Street of the Golden Lantern, Dana Point, California, which date, time and place of hearing of such report is hereby fixed for the hearing of any objections of any of the property owners liable to be assessed for the work of abatement.

SECTION 6. The Director of Community Development/Designee shall post a true and correct copy of said report on or near the chamber door of this Council for at least three (3) days, prior to its submission to the Council, with a notice of the time and place where the report will be submitted to the Council for confirmation.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of April 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

SHARIE APODACA, INTERIM CITY CLERK

RESOLUTION NO. 05-04-27-__

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

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meeting thereof, held on the 27th day of April, 2005 by the following vote

AYES:

NOES:

ABSENT:

(SEAL)

SHARIE APODACA, INTERIM CITY CLERK