

## **ITEM 9.B.**

### **MOORPARK CITY COUNCIL AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Hugh R. Riley, Assistant City Manager 

**DATE:** July 14, 2010 (CC Meeting of July 21, 2010)

**SUBJECT:** Review Ventura County Policy for Enforcement of Weed Abatement/Set-Back Clearance In Connection with Wild Fire Hazard Protection

#### **BACKGROUND**

At the June 16 and July 7, 2010 meetings, the City Council heard from residents in the vicinity of Gabbert Road who are concerned about weeds and brush in the area being fuel for wild fires. In the past few years, residences in this area have been subject to loss or significant damage from wild fires.

The City Council directed staff to report on current County policy with regard to the enforcement of weed abatement regulations and set-back clearances for private properties abutting public roadways. Ventura County's policies are contained in Ventura County Fire Protection District Ordinance Number 26. Fire hazard abatement policy is contained in Appendix H of the Ordinance (Attached)

Ventura County Fire Protection District Division Chief Keith Gurrola will be present at the July 21, 2010 City Council Meeting to provide further detail regarding these policies; report on the status of the private properties of concern; and answer questions from the Council.

#### **RECOMMENDATION**

Receive and file report.

**ATTACHMENT:** Appendix H- Fire Hazard Abatement, VVCFPD Ordinance No. 26

Appendix H is added and reads as follows:

**APPENDIX H  
Fire Hazard Abatement**

**SECTION H101 General**

**H101.1 Scope.** This appendix provides provisions intended to identify hazard areas and mitigate the risk to life and structures from intrusion of fire from wildland fire exposures and fire exposures from adjacent structures and to mitigate fires from spreading to wildland fuels that may threaten to destroy life, overwhelm fire suppression capabilities, or result in large property loss.

**H101.2 Purpose.** The purpose of this appendix is to establish minimum requirements in wildland-urban interface areas that will increase the ability of a building to resist the intrusion of flame or burning embers projected by a vegetation fire, including the identification of hazardous fire areas that require applicable defensible space provisions as set forth herein and enforced by the fire code official and applicable state and local fire-resistive building standards that are required and enforced by the local building official.

**SECTION H102 Definitions.**

**H102.1 Definitions.** For the purpose of this appendix certain terms are defined as follows:

**Combustible Material** includes seasonal and recurrent weeds, stubble, brush, dry leaves, tumbleweeds, rubbish, litter or flammable materials of any kind.

**Defensible Space.** An area either natural or man-made, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

**Fire Protection Plan** is a plan that shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

**Hazardous Fire Area** is land which is covered with grass, grain, brush, or forest, whether privately owned or publicly owned, which is so situated or is of such inaccessible location that a fire originating upon such land would present an abnormally difficult job of suppression or would result in great and unusual damage through fire or resulting erosion. Such areas are designated by the fire code official. The fire code official is authorized to utilize as reference the definition of Hazardous Watershed Fire Area, Local Agency Fire Hazard Severity Zone Maps designated pursuant to California Government Code Sections 51175 through 51189, and the International Wildland-Urban Interface Code.

**Hazardous Watershed Fire Area** is a location within 500 feet of a forest or brush-, grass-, or grain-covered land, exclusive of small individual lots or parcels of land located outside of a brush-, forest-, or grass-covered area.

**Parcel** is a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number whether or not any buildings are present.

**ATTACHMENT**

**Public Nuisance** is a declaration by the fire code official that the presence of combustible material on a parcel creates a fire hazard.

**Wildland-Urban Interface Area** is that geographical area where structures and other human development meet or intermingle with wildland or vegetative fuels.

**H103 Unlawful Disposal.** Every person who places, deposits or dumps combustible material on a parcel whether or not he owns such parcel, or whether or not he so places, deposits or dumps on such parcel with the consent of the owner thereof, is subject to the criminal sanctions set forth in Health and Safety Code Section 13871.

**H104 Clearance of Brush, Vegetative Growth and Combustible Material from Parcels.** All parcels declared a public nuisance shall be cleared entirely of combustible material. If the fire code official determines this impractical, the provisions of Section H105 may be used.

**H105 Clearance of Brush or Vegetative Growth from Structures.** Any person owning, leasing, controlling, operating or maintaining any building in, upon, or adjoining any hazardous fire area, and any person owning, leasing or controlling any land adjacent to such buildings, shall at all times maintain around and adjacent to such building an effective firebreak made by removing and clearing away all combustible material for a distance not less than 100 feet from all portions of the building. Distances may be increased by the fire code official because of a site-specific analysis based on local conditions and, when required, based on a fire protection plan.

This section shall not apply to single specimens or stands of protected species of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting a fire from the native growth to any building.

**H105.1 Fire Protection Plan.** A fire protection plan shall be prepared by the applicant when required by the fire code official.

**H105.1.1 Cost.** The cost of fire protection plan preparation and review shall be the responsibility of the applicant.

**H106 Prosecution.** The fire code official may serve a written order upon the owner or possessor of a parcel, when, in the fire code official's opinion, a public nuisance exists thereon. The order shall direct such owner or possessor to remove or abate the public nuisance within ten days after such order is given. Every owner or possessor who fails or refuses to abate said public nuisance from such parcel within ten days after being served with such order is guilty of a misdemeanor. Evidence that the current assessment roll of the County shows real property assessed to a person shall constitute prima facie evidence that such person is the owner of such property.

**H107 Clearance Upon Default of Owner or Lessee.**

**H107.1 Notice.** The fire code official may, instead of, or in addition to, following the procedure set forth in Section H106, cause a notice to be mailed. The notice shall state that a public nuisance exists on a specified parcel, describe the parcel as set forth on the County assessment roll, and direct the owner or possessor of the parcel to remove or abate the public nuisance within ten days after notice is given or such later period as specified in the notice. The notice shall also state the time and place that the Board of Directors will meet to hear the report of the fire code official regarding the alleged public nuisance.

**H107.2 Mailed Notice.** The notice shall be mailed to the last assessee of the parcel at the address given on the County assessment roll at least ten days before the Board of Directors meets to hear the report of the fire code official regarding the alleged public nuisance. The notice shall also be provided to the Clerk of the Board of Directors three days prior to the Board hearing.

It shall be the responsibility of the owner of record in the current assessment roll to notify any new owner or possessor of the parcel of the notice that was received and forward the notice to the new owner or possessor of the parcel. It shall also be the responsibility of the current owner of record to notify the fire code official of this change in ownership on the form provided.

**H107.3 Hearing.** At the time and place stated in the notices, the Board of Directors shall meet to hear the report of the fire code official and any objections thereto. The fire code official shall attend, inform the Board as to the alleged public nuisance, and supply the description of the parcel upon which it exists, the name and address of the last known assessee thereof, and state what has been done in order to give notice of the hearing according to the provisions of this code. The Board may continue the hearing from time to time as it sees fit.

**H107.4 Clean-up Order.** If, after a hearing, the Board of Directors finds that a public nuisance exists upon a parcel, the Board may direct the fire code official to abate the public nuisance. The Board shall maintain a record of its proceedings at such hearing and retain therewith the report of the fire code official and a description of such parcel and, where available, the name and address of its last known assessee.

**H107.5 Abatement.** If the Board of Directors directs the fire code official to abate a public nuisance, he shall proceed to abate such nuisance unless it has been completely abated before his agents arrive to begin such abatement. The fire code official may expend District funds for such abatement and may contract with a person or persons for such abatement.

## **H108 Seasonal and Recurrent Nuisances**

**H108.1 Resolution.** If, in the opinion of the fire code official, the public nuisance on a parcel is seasonal and recurrent, the fire code official may ask the Board of Directors to so declare by resolution. If the Board of Directors makes such a declaration by resolution, such seasonal and recurring public nuisance thereafter shall be abated every year without the necessity of any further hearing.

**H108.2 Notice.** For a parcel subject to a declaration described in Section H108.1, it is sufficient to mail a notice to the same person and in the same manner as set forth in Section H107.2. The notice shall describe the parcel and shall state that the parcel is subject to seasonal and recurring weeds that constitute a public nuisance and must be cleared every year without further notice. The notice shall further state that if the weeds constituting a public nuisance are not cleared by the owners of the parcel by a specified date, they will be abated by the District, in which case the cost of such abatement shall be assessed upon the parcel from which the public nuisance is abated and that such cost will constitute a lien upon such parcel until paid. In the event the fire code official sets a hearing before the Board of Directors as authorized by Section H108.3, the notice shall also set forth the date, time and place of such hearing and shall be mailed at least ten days before the hearing.

**H108.3 Optional Hearing.** Notwithstanding Section H108.1, the fire code official may set a hearing before the Board of Directors to consider any objections to the proposed abatement of the public nuisance as described in the notice pursuant to Section H108.2. The decision by the Board at the hearing is final. Upon the completion of the hearing, the Board shall authorize and direct the fire code official to abate any public nuisance found by the District to exist on the parcel

after the date specified in said notice. The fire code official may expend District funds for such abatement and may contract with a person or persons for such abatement.

**H108.4 Optional Second Notice.** At the discretion of the fire code official, if a public nuisance is found to exist on a parcel after the date specified in the first notice pursuant to Section H108.2, a second notice may be mailed or delivered to the same person to whom the first notice was mailed. The second notice shall state that the public nuisance will be abated by the District unless it is otherwise abated immediately or by a specified date. The mailing or delivery of a second notice does not create any right to object or further object to the proposed abatement of the public nuisance.

#### **H109 Collection of the Cost of Abatement**

**H109.1 Account of Expenses.** The fire code official shall keep an account of his expenses when abating a public nuisance pursuant to an order by the Board of Directors and file the account thereof with the Board which shall include a description, according to the County assessment roll, of the parcel upon which such public nuisance existed and, when available, the name and address of the last known assessee.

**H109.2 Confirmation of Expense Account.** The account of expenses shall be maintained on file, open to public inspection, in the office of the Clerk of the Board of Directors for at least ten days before a hearing of the Board to confirm such account. Any person who files with the Clerk of the Board a written request to be notified of such hearing will be so notified by mail at the address supplied with the request so long as the request is received at least two business days before the day of the hearing. At the time fixed for such hearing, the Board shall meet to hear any objections to the account of expenses filed by the chief. At such hearing the Board may make any modification in the amount it deems just, after which the account shall be confirmed.

**H109.3 Special Assessment and Lien.** The amount of expenses incurred by the fire code official for abating a public nuisance when confirmed by the Board of Directors shall constitute a special assessment against the parcel from which the said public nuisance was removed and a lien thereon for the amount of such assessment.

**H109.4 Transmittal of Account.** The Board of Directors shall deliver a copy of the account, as confirmed, to the Auditor of the County on or before the 10th day of August following such confirmation.

**H109.5 Inclusion of Assessment.** The County Auditor shall enter the amount stated in the account as a special assessment against the parcel described in the account. The Tax Collector of the County shall include the amount of the assessment on the bill for taxes levied against the parcel. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such special assessments, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement, as confirmed, relating to such real property shall be transferred to the unsecured roll for collection. All special assessments collected shall be paid into the county treasury to be used on behalf of the Fire District.

**H109.6 Grounds for Cancellation or Refund.** If a property owner believes an assessment against the owner's property pursuant to Sections H107 and H108 was entered, charged or paid more than once, through clerical error, through the error or mistake of the District in respect to any

material fact, or illegally, the owner must in compliance with applicable law present a claim to the Board of Directors for an order canceling (if uncollected) or refunding (if collected) the assessment.