



City Council Memorandum

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MEMORANDUM: April 19, 2013

AGENDA DATE: April 23, 2013

TO: Mayor and City Council

FROM: Jennifer Faught, City Attorney

TITLE: **CONSIDERATION OF MUNICIPAL CODE AMENDMENTS
PROVIDING FOR PARTICIPATION BY THE CODE
ENFORCEMENT BOARD IN MATTERS RELATED TO CODE
ENFORCEMENT IN THE CITY**

BACKGROUND:

The proposed amendments to the municipal code would help create more of a role for the newly-created Code Enforcement Board to take part in code enforcement matters in the City.

The first addition to the municipal code, in the chapter regarding weeds and rubbish, would clarify that the City may use the procedures laid out in the Government Code to address weeds and rubbish within the City, but may use the Code Enforcement Board in place of the “legislative body” (which would be the City Council) referred to in the statutes. (Legal counsel has already previously suggested a preference to use those statutory procedures over the procedures set out in chapter 8.16 of the municipal code.)

The second group of amendments clarify that the Code Enforcement Board will hear and consider approval of the report on the costs of graffiti abatement by the City.

The final group of amendments allows the Code Enforcement Board, rather than the Planning Commission, to preside over hearings on abandoned vehicles.

These amendments are part of a larger effort to integrate the Code Enforcement Board into City code enforcement matters.

POTENTIAL MOTION:

I MOVE TO READ BY TITLE ONLY, FIRST READING, ORDINANCE #500, AN ORDINANCE OF THE CITY OF GREENFIELD ADDING SECTION 8.16.080 TO THE GREENFIELD MUNICIPAL CODE, AND AMENDING SECTIONS 9.38.130, 9.38.140, 10.16.110, 10.16.120, 10.16.140 AND 10.16.150 TO PROVIDE FOR CERTAIN CODE ENFORCEMENT RELATED MATTERS TO BE HEARD BY THE CODE ENFORCEMENT BOARD

ORDINANCE NO. 500

AN ORDINANCE OF THE CITY OF GREENFIELD ADDING SECTION 8.16.080 TO THE GREENFIELD MUNICIPAL CODE, AND AMENDING SECTIONS 9.38.130, 9.38.140, 10.16.110, 10.16.120, 10.16.140 AND 10.16.150 TO PROVIDE FOR CERTAIN CODE ENFORCEMENT RELATED MATTERS TO BE HEARD BY THE CODE ENFORCEMENT BOARD

Section 1. Section 8.16.080 is hereby added to the Greenfield Municipal Code as follows:

8.16.080 Alternative procedures.

As an alternative to the above procedures, the City may elect to use the procedure set forth in Government Code sections 39560 and following, substituting the Code Enforcement Board for the legislative body referred to in those statutes.

Section 2. Section 9.38.130 is hereby amended to read as follows, with additions in underline and deletions in strikethrough text:

9.38.130 Meeting of council to approve costs of removal by city.

A. The council or the Code Enforcement Board shall conduct a hearing upon the report submitted by the director to hear all protests and objections to the report, the work done and the costs for that work. At least ten days in advance of such hearing, the city clerk shall notify the person(s) owning property upon which work was performed (under Section 9.38.110) of the date, time and place of the council hearing and the total cost to be charged against the property. The total cost shall include such charges as the council or Code Enforcement Board, by resolution, has determined for administrative expenses connected with the removal of graffiti and collection of costs for removal. The notice provisions of Section 9.38.080 shall be applicable to the required notices under the section entitled, "Section 9.38.090 Serving of Notice."

B. The council or Code Enforcement Board shall hear and determine all protests and objections at the public hearing regarding the report and work done thereunder and costs for that work. Subsequent to the presentation of the report, the council or Code Enforcement Board shall, by resolution, confirm, amend or reject the report, in whole or in part.

Section 3. Section 9.38.140 is hereby amended to read as follows, with additions in underline text:

9.38.140 Assessment and collection of costs.

The council or Code Enforcement Board shall, after the hearing as provided for in Section 9.38.130, send the confirmed report to the director of finance with instructions to bill the property owner(s) to collect the total costs of removal. If costs are not paid, the city treasurer shall have the costs entered under an appropriate heading upon the assessment roll for collection at the time and in the manner as ordinary municipal taxes are collected, subject to the same penalties and procedures under foreclosure for sale and in case of delinquency as provided for in ordinary municipal taxes. If costs are not paid, the council may, by resolution, order that all costs of removal constitute liens upon the property, directing the director of finance to record a certified copy of such resolution in the Monterey County recorder's office. The city attorney may thereupon proceed to foreclose each of such liens and to collect all amounts owing to the city in the manner provided by law, or bring suit to enforce recovery of said costs as provided in Section 9.38.180.

Section 4. Section 10.16.110 is hereby amended as follows, with additions in underline and deletions in strikethrough text:

10.16.110 Hearing--Testimony.

All hearings under this chapter shall be before the ~~planning commission~~ Code Enforcement Board, which shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The ~~planning commission~~ Board shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing or may present a sworn written statement denying responsibility for the presence of the vehicle on the land with his reasons for such denial.

Section 5. Section 10.16.120 is hereby amended as follows, with additions in underline and deletions in strikethrough text:

10.16.120 Hearing--~~Planning commission~~ Findings.

The ~~planning commission~~ Code Enforcement Board may impose such conditions and take such other action, as it deems appropriate under the circumstances to carry out the purpose of this chapter. It may delay the time for removal of the vehicle or part thereof, if, in its opinion, the

circumstances justify such delay. In conducting the hearing, the Board shall not be limited by the technical rules of evidence. At the conclusion of the public hearing the ~~planning commission~~ Board may find that a vehicle or part thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the costs of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site.

Section 6. Section 10.16.140 is hereby amended as follows, with additions in underline and deletions in strikethrough text:

10.16.140 Appeal.

A. Any interested party may appeal the decision of the ~~planning commission~~ Code Enforcement Board by filing a written notice of appeal with the city clerk within five days after its decision.

B. Such appeal shall be heard by the city council, which may affirm, amend or reverse the order or take other action deemed appropriate.

C. The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 10.16.080.

D. In conducting the hearing the city council shall not be limited by the technical rules of evidence.

Section 7. Section 10.16.150 is hereby amended as follows, with additions in underline and deletions in strikethrough text:

10.16.150 Removal to scrapyard.

Upon removal of a vehicle by the director of planning, his deputies, assistants, or employees under Sections 10.16.090 and 10.16.100, or not less than thirty days after final action authorizing removal has been taken under Sections 10.16.110 through 10.16.140, the vehicle or parts thereof may be disposed of by removal to a scrapyard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable. ~~In conducting the hearing the city council shall not be limited by the technical rules of evidence.~~

Section 8. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid,

unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

Section 9. Effective Date. This Ordinance shall take effect and be enforced thirty (30) days following its adoption.

Section 10. Posting. The City Clerk of the City of Greenfield shall cause this Ordinance to be posted in at least three (3) public places in the City of Greenfield in accordance with section 36933 of the Government Code of the state of California.

Introduced at a regular meeting of the City Council of the City of Greenfield held on the 23rd of April, 2013.

ADOPTED as an Ordinance of the City Council of the City of Greenfield at a regular meeting held on the ____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk