DATE: May 4, 2020

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Leonard Thompson, Fire Chief
       Jessica Power, Fire Marshal, Battalion Chief

SUBJECT: Resolution Ordering Abatement of Nuisances Consisting of Weeds Growing Upon Public and Private Property in the City of Petaluma and Ordering the Fire Department to Abate Said Weeds by Contract if Property Owners Fail to Do So

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution Ordering Abatement of Nuisances Consisting of Weeds Growing Upon Public and Private Property in the City of Petaluma and Ordering the Fire Department to Abate Said Weeds by Contract if Property Owners Fail to Do So.

BACKGROUND

On March 2, 2020, the City Council approved Resolution No. 2020-033 N.C.S. which declared that weeds growing upon parcels of public and private property are a public nuisance requiring abatement. A public hearing was subsequently set for May 4, 2019 to hear any objections to said Declaration. On April 24, 2019, a letter was sent to affected property owners alerting them of their right to attend this public hearing.

DISCUSSION

The Government Code requires the City Council to provide a venue for property owners to voice their objections regarding the City’s weed abatement program and how the properties are abated. This public hearing, and subsequent resolution, meets the intent of the law which allows the Fire Department and its contractor to enter private property and force abatement of weed-related fire hazards, if property owners fail to abate. Property owners are highly encouraged to handle their own weed abatement and abatement by the City only takes place after non-compliance with the stated abatement deadline of May 31, 2020. Inspections for abatement by the City will begin June 1, 2020, depending on weather conditions, and will continue throughout the season.

In addition to the listed and known sites within the City, the Fire Department is also notified throughout the weed abatement season (typically through complaints) of additional parcels which may require abatement and which were not listed in advance of the May public hearing. An inspection takes place and, if the parcel is deemed to contain a weed-related fire hazard, the
property owner(s) must be given the same right to due process and given an opportunity to be heard by Council. Therefore, a second Public Hearing date has been set for July 20, 2019 to allow any citizen objections to be heard by Council prior to abatement by the City.

All work performed (such as disk ing, mowing, blading, or hand work) is charged at one-hour minimums. Additional work over one hour is prorated on quarter-hour increments at the same hourly base rate. The Contractor is permitted to charge a pulling (or towing) fee for each parcel where mowing, blading, disk ing or a combination thereof is performed. This fee is not applicable where only hand work is provided. Differences in size and type of terrain and method of abatement used are all variables for costs incurred. The hourly costs for work performed are as follows:

<table>
<thead>
<tr>
<th>Work Type</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disking</td>
<td>$60.00/hour</td>
</tr>
<tr>
<td>Blade Work</td>
<td>$50.00/hour</td>
</tr>
<tr>
<td>Tractor Mowing</td>
<td>$60.00/hour</td>
</tr>
<tr>
<td>Hand Work</td>
<td>$40.00/hour</td>
</tr>
<tr>
<td>Travel Time/Pulling Fee</td>
<td>$30.00/hour</td>
</tr>
</tbody>
</table>

After expressed concerns from the Council regarding environmental effects from the disk ing method, research was conducted to determine the extent of disk ing utilized for this program. In 2018, it was found that two lots were abated utilizing the disk ing method. Portions, if not all, of these lots may not be able to be abated by other methods due to the terrain. For the 2019 season and beyond, the contractor was provided direction to utilize other methods wherever feasible. The 2020 contractor will be provided the same direction. This may mean portions of lots are mowed, and portions are disked due to the terrain. Additionally, the City is exploring grazing to manage City-owned properties and will implement if and where feasible.

In addition, the Contractor agrees to honor any designated “Spare-the-Air Days” that occur during the weed abatement season, as designated by the Bay Area Air Quality Management District (“BAAQMD”). They agree not to utilize any gas- or diesel-powered equipment on those designated days and all scheduled weed abatement cutting will take place around those designated days, if any.

**FINANCIAL IMPACTS**

The weed abatement program is structured to be a 100% cost recovery program. Direct costs of abatement are charged based on actual costs to clear the parcels. A per-parcel administrative fee is added to each public and private parcel that is abated, to cover the cost of the weed abatement inspector, program management and administrative support. The administrative fee for the 2020 weed abatement season is $217 per parcel and is based on the City’s actual and reasonable costs of administering the program. The fee is approved by City Council Resolution and is identified in the City’s adopted schedule of fees for services. All direct and administrative costs are recovered through payment by the individual property owner(s) and/or collection of special assessments against the specific parcels by the County Assessor in connection with property tax payments.

**ATTACHMENTS**
1. Resolution
2. Resolution Declaring Weeds a Public Nuisance Requiring Abatement
3. Letter Mailed to Property Owners
4. Memo to Petaluma City Council Listing Properties Within 500’ of Councilmembers’ Properties
RESOLUTION ORDERING ABATEMENT OF NUISANCES CONSISTING OF WEEDS GROWING UPON PUBLIC AND PRIVATE PROPERTY IN THE CITY OF PETALUMA AND ORDERING THE FIRE DEPARTMENT TO ABATE SAID WEEDS BY CONTRACT IF PROPERTY OWNERS FAIL TO DO SO

WHEREAS, on the 2nd day of March 2020, the Council of the City of Petaluma adopted Resolution No. 2020-033 N.C.S., declaring weeds growing upon public and private property referred to and described in said Resolution, constituted and were a public nuisance and fixed the 4th day of May 2020, at the hour of 6:45 p.m., or as soon thereafter as can be heard, in the Council Chambers of City Hall, 11 English Street, Petaluma, California, as the time and place of hearing protests and objections to said abatement proceedings; and,

WHEREAS, written notice of the May 4, 2020 hearing, substantially in the form provided by Government Code Section 39566, was mailed to all owners of potentially impacted property at least five days prior to said hearing pursuant to Government Code Section 39567.1, as specified in Resolution No.2020-033 N.C.S.; and,

WHEREAS, the City Council has held its hearing and considered all objections or protests to the proposed abatement of nuisance weeds and has considered, followed or overruled any or all objections, as hereinafter set forth, and the City Council has now acquired jurisdiction to proceed and perform the work of abatement of said weed nuisances.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council does hereby order the Fire Department of the City of Petaluma, through a contractor employed by the City, to abate said nuisances by removing said weed nuisances by means of mowing, disking, handwork, or blading using whichever means it deems to be the most appropriate after considering the location and the terrain of said parcels of public and private property referred to and described in said Resolution No. 2020-033 N.C.S. Said mowing, disking, handwork, and blading shall be accomplished as many times as the Fire Department may deem necessary to provide the best possible control of weeds; and,
2. To recover administrative costs for managing the abatement program, the City Council authorizes the Fire Marshal to assess an administrative fee ($217.00) to every parcel or lot of private or public property that requires abatement by the City; and,

3. The Fire Department shall keep an account of the cost of this abatement of said nuisances on public and private property where the work is done, and thereafter submit to the Council for confirmation, an itemized written report showing such cost as required by Section 39574 of the Government Code, and thereafter such proceedings shall be had for special assessments against the respective parcels of land to pay for the cost of said work, in the manner provided by Chapter 13, Part 2, Division 3, of Title 4 of the Government Code.
Resolution No. 2020-033 N.C.S.
of the City of Petaluma, California

RESOLUTION DECLARING WEEDS, REFERRED TO AND
DESCRIBED IN THIS RESOLUTION, GROWING UPON PARCELS
OF PUBLIC AND PRIVATE PROPERTY CONSTITUTE AND ARE
A PUBLIC NUISANCE REQUIRING ABATEMENT, AND SETTING
PUBLIC HEARINGS AT WHICH OBJECTIONS MAY BE HEARD

WHEREAS, brush and weed abatement reduces fuel loads in areas of Petaluma known
for being susceptible to grass and brush fires and is regarded as a proactive fire prevention
measure designed to (1) prevent ignition by the reduction or removal of fuel; (2) slows, stops, or
confines the spread of a fire in areas with excessive grass/brush; (3) allows time for fire
suppression personnel to respond and extinguish a threatening fire; and (4) reduces the fire threat
from properties that adjoin the City limits; and

WHEREAS, the Petaluma Fire Prevention Bureau has developed an aggressive brush
and weed abatement program which has served to protect the public health, safety and welfare of
the citizenry of the City of Petaluma by reducing fire danger and the effects of excessive brush
and weed fires for the past thirty-two years; and

WHEREAS, Government Code sections 39560 et seq. provide a procedure for weed
abatement by municipal entities, pursuant to which the City of Petaluma may adopt a resolution
declaring certain weeds a nuisance and thereby allow the Fire Department to proceed with
abatement.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Petaluma
as follows:

1. All of the weeds now growing upon public and private parcels within the City of
Petaluma referred to and described in the list prepared by the Fire Marshal, pages on
file in the office of the Fire Marshal, are weeds which bear seeds of winged or downy
nature, or attain such a large growth as to become a fire menace when dry, and/or are
otherwise noxious and dangerous, and all such weeds growing upon such public and
private property are a public nuisance, pursuant to Government Code Section 39561, which the City proposes to abate; and,

2. That the City Council hereby sets the time for a public hearing at 6:45 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers of the City Hall, 11 English Street, Petaluma, California, on April 20, 2020 and, if required, again on July 20, 2020, at which time the City Council will hear and consider all objections to the proposed removal of weeds, rubbish, refuse and dirt; and,

3. That pursuant to Government Code Section 39567.1, the City Clerk shall cause written notice of the proposed abatement to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date this resolution is adopted. The City Clerk may delegate this duty to the Fire Marshal. Said notice shall be substantially in the form provided by Government Code Section 39566.
Re: Parcel #: APN «Num» «Street»

WEED ABATEMENT SEASON APPROACHING:
As fire season quickly approaches, the potential for fires this summer and fall are of great concern to the City of Petaluma. Brush and weed abatement to reduce fuel loads is a proactive fire prevention measure that will stop, slow, or confine the spread of fire; allow time for fire suppression personnel to respond and extinguish a threatening fire; and reduce the fire threat from properties that adjoin the city limits. Please help keep Petaluma fire safe by abating weeds and grasses on your property throughout the entire fire season. See Abatement details on back page.

NOTICE OF HEARING
• On the 2nd day of March 2020, the City Council of Petaluma, California passed Resolution #2020-033, declaring weeds that constitute a fire hazard in the City of Petaluma and must be abated. A copy of the resolution can be found here: https://xara-1-4.cityofpetaluma.net/weblink/9/doc/352626/Page1.aspx, or by contacting the City Clerk at (707) 778-4360.
• All property owners having any objection to the proposed removal of such weeds are hereby notified to attend a Public Hearing of the Petaluma City Council, to be held on the 4th day of May, 2020, in the Council Chambers at City Hall, 11 English Street, Petaluma, California, beginning at 6:45 p.m., or as soon thereafter as the matter may be heard, when objections will be heard and given due consideration. If you plan on removing the weeds yourself or by a contractor of your choice, you do not need to attend this hearing. Only attend the meeting if you object to the Fire Marshal clearing your property if you fail to do it yourself.
• If the property identified on this notice is not cleared of weeds by May 31, 2020, it will be cleared by a City contractor, and the cost of removal will be assessed against the property, including a $217.00 administrative fee. Failure to remit fees due will result in a special assessment placed on a secured property tax roll.
• All parcels must be maintained free of brush/weeds that pose a fire hazard throughout the season – May through October – or until the first major rains in Fall. Even if your property is abated early, re-growth shall be abated. If at any time your property is determined to be a hazard, it may be abated by the City without additional notice.
• For a copy of the Weed Abatement Guidelines, please visit our website at https://cityofpetaluma.org/documents/weed-abatement-guidelines-updated-2020/, or contact the Fire Prevention Bureau.
• NOTE: If you no longer own this property, please contact the Fire Prevention Bureau at (707) 778-4389 or firemarshall@cityofpetaluma.org at your earliest convenience. Office location: 32 Bassett Street, Petaluma, CA 94952.

In accordance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk’s Office at (707) 778-4360 (voice) or (707) 778-4480 (TDD). Translators, American Sign Language interpreters, and/or assistive listening devices for individuals with hearing disabilities will be available upon request. A minimum of 48 hours is needed to ensure the availability of translation services. In consideration of those with multiple chemical sensitivities or other environmental illness, it is requested that you refrain from wearing scented products.

«Current Owner»
«Dba»
«Owner’s Address»
«City» «Zip» «Zip 4»
Creating defensible space is an essential part of preparing for fire season in California. Providing proper defensible space minimizes fire damage by providing a space and/or fuel break where firefighters can defend against fire.

It is important to know that inspections are conducted throughout the dry season, and the property must be maintained in order to remain in compliance. Even if a property owner abates their property early in the season, there is potential for re-growth and it must be abated. Due to the continued rainy weather this year, the abatement deadline has been moved to May 31st.

Weeds, grass, vines or other growth that are capable of endangering property shall be cut down and removed by the owner or occupant of the premises. Vegetation clearance requirements in the wildland-urban interface areas shall be in accordance with CFC Chapter 49, CFC: Vegetation and Title 19, Division 1§307(b): Clearances.

Here’s how to comply with the requirements by May 31st:

Parcels five (5) acres or less must have all combustible growth cut or removed. Weeds shall be cut to 4” or less in height.

Larger parcels shall maintain a minimum 30’ perimeter of abatement around the property. Additional fuel breaks may be required on larger properties to divide the property into smaller areas that would separate large amounts of fuel. The abatement trail should be a minimum of 30’ wide.

A defensible space of 30’-100’, depending on grade and other factors, around all structures, either man-made or natural, in which material is capable of allowing fire to spread unchecked, must be cleared, treated or modified to slow the rate and intensity of an approaching fire.

Roadways, driveways and Fire Department access roads shall be cleared of combustible vegetation equal to the width of the road plus ten feet (10’) on both sides.

Property owners who notice the existence of rare, threatened or endangered plants or wildlife on a noticed property must notify the Department of Fish and Game (or appropriate agency) at least ten (10) days in advance of undertaking the vegetation clearance. If the landowner is aware of any State or Federally-listed species on the property, then the U.S. Fish and Wildlife Service and the Department of Fish and Game should be notified prior to the abatement. If a State or Federal candidate or listed species is killed, injured or captured, the landowner shall report this information to the Department of Fish and Game or U.S. Fish and Wildlife Service, respectfully.

When mowing weeds, it is imperative it be done safely: One small spark from a mower blade hitting a rock can result in a big fire. All mowing should be done as early in the morning as possible, while temperatures are low, humidity is high, grasses are still damp with dew and not on windy days. When mowing always have a water press and pointed shovel handy. Mow early and often.

9
CITY OF PETALUMA
11 English Street
Petaluma, CA 94952
Phone: 707-778-4301

Proof of Service by Mail

I am a citizen of the United States and a resident of the County of Sonoma, State of California, over the age of eighteen (18) years, and not a party to the within action: my business is City Hall, P.O. Box 61, 11 English Street, Petaluma, California 94952.

On the __28___ of __April___, 2020__, I served the within:

2020 Weed Abatement Protest Hearing Letters

on the interested parties in said action by placing a true copy thereof in an envelope addressed as follows:

(SEE ATTACHED EXHIBIT OF NAMES AND ADDRESSES)

I declare under penalty of perjury that the foregoing is true and correct. Executed at Petaluma, California, on __April, 28___, 2020__.

Signed: X

I declare under penalty of perjury that the foregoing identified envelopes were sealed and first-class postage fully prepaid placed thereon, in the United States mail at Petaluma, California.

Executed at Petaluma, California, on the __28___ day of __April___, 2020__.

Signed: X

Number of envelopes __537__ x __.50__ cents (postage) = __$268.50__

Account number charged: 1100.13409.54360
On April 28, 2020, the Fire Prevention Bureau mailed weed abatement notices to 537 parcel owners who own property within the City limits. City Departments were also notified of the 148 parcels for which they are responsible. Listed below, alphabetically by Councilmember, is a listing of these addresses (by parcel number and street address) that have been identified as being within 500’ of a City Councilmember’s property.

**TERESA BARRETT**

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>006-163-006</td>
<td>348 Petaluma Blvd North</td>
</tr>
<tr>
<td>006-163-040</td>
<td>368 Petaluma Blvd North</td>
</tr>
</tbody>
</table>

**D’LYNDA FISCHER**

None

**MIKE HEALY (Primary & Secondary Addresses)**

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>006-163-006</td>
<td>348 Petaluma Blvd North</td>
</tr>
<tr>
<td>006-284-036</td>
<td>256 Petaluma Blvd North</td>
</tr>
</tbody>
</table>

**GABE KEARNEY**

None
# DAVE KING (Primary & Secondary Addresses)

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>008-232-024</td>
<td>808 6&lt;sup&gt;th&lt;/sup&gt; St</td>
</tr>
<tr>
<td>008-232-025</td>
<td>814 6&lt;sup&gt;th&lt;/sup&gt; St</td>
</tr>
<tr>
<td>008-232-053</td>
<td>806 6&lt;sup&gt;th&lt;/sup&gt; St</td>
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</table>

# KEVIN MCDONNELL

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>006-181-010</td>
<td>1 Parkside Ter</td>
</tr>
</tbody>
</table>

# KATHY MILLER

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>017-230-037</td>
<td>Garfield Drive (next to Arroyo Park)</td>
</tr>
</tbody>
</table>