

CITY OF OAKLAND

Agenda Report

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 DEC -1 1 PM 5: 21

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Community and Economic Development Agency
DATE: December 6, 2011

RE: **A Supplemental Report and Two Resolutions:**

1. **A Resolution Approving a Report From the City Administrator Implementing Building Services Division ("BSD") Priority Improvement Items in Response to the Motion of the City Council Adopted at the September 20, 2011 City Council Meeting, Including, Neutral Appeals Process for Code Enforcement Appeals, Discontinuing Prospective Code Enforcement Liens, Revising Conflict of Interest Policy for Outside Employment for the BSD, and Conducting an Further Investigation of BSD, and Approving a Requirement to Rebid Change Orders Above Ten Percent for Certain BSD Contracts in Excess of \$1,000 and Adopting an Amnesty Program For Certain BSD Penalties and Interest; and**
2. **A Resolution Creating a Building Services Improvement Advisory Task Force, Setting Procedures and Criteria for Appointment, and Providing the Terms and Responsibilities of the Advisory Task Force Members**

SUMMARY

At the November 29, 2011 Community Economic Development Committee meeting, the Committee passed a motion on the following:

1. For contracts for services obtained to abate blight, include a provision that requires change orders not to exceed 10% for such contracts greater than \$1,000. The staff recommendation had been to establish the contract threshold at \$2,500.
2. For the new amnesty program, for residential property owners who have received blight violations, to both cure the violations and pay the original charges during a four (4) month window of time, then all additional penalties and interest would be forgiven and liens removed. In addition, staff recommends adding a provision that excludes lenders from the new amnesty program.

The resolution language has been amended to accommodate the above items.

Item No. _____
City Council
December 6, 2011

In addition, Committee members had questions regarding the status of efforts to improve code enforcement operations. The below chart summarizes key changes made to date, including items from the September 20, 2011 Council motion on improvement needs, as well as other priority items.

Council Item	Implementation Status
1. Lower cap on change orders from 31% to 10%.	Required Council determination on contract threshold. Once resolution is passed with \$1,000 threshold, staff will implement immediately.
2. Hearing on houses demolished within last 5 years.	Original report and hearing scheduled for November 29 th rescheduled for January to accommodate feedback from property owners.
3. Create appeals process with a neutral (non-Building Services) hearing officer.	The City is continuing to use an outside hearing officer for public nuisance cases. For smaller blight cases, the City Administrator has designated non-CEDA staff to serve as interim hearing officers. Staff is working to develop a pro bono panel.
4. Ban prospective liens and set policy that liens can only be placed after documented notification and abatement failure.	Prospective liens have been banned and new policy on liens has been established.
5. Establish an amnesty program.	Amnesty program requires Council action and resolution. Once resolution is passed, staff will implement immediately.
6. Convene Task Force with citizen participation	Council Task Force requires Council resolution. Once resolution is passed, staff will implement immediately.
7. City Administrator approval of demolitions	New requirement that City Administrator must approve all demolitions has been implemented.
8. Refer relevant personnel matters to Closed Session	City Attorney's office has reviewed and concluded that personnel matters are not generally appropriate for Council closed session.
9. Independent investigation of processes, including A to Z management review	Approval of most expeditious way of handling management review needs requires Council waiver of competitive bidding process and approval of contract award, scheduled for 11/29/11 CED committee meeting and approved by committee. Once Council approves, staff will implement immediately.

10. Return to Council on implementation of new processes	Provided preliminary plan for Council in 11/29/11 CED report. Comprehensive plan based upon best practice research to be provided in March/April 2012 report.
11. Conflict of interest policy on blight	The City has existing incompatible employment and conflict of interest policies. CEDA and the City Administrator are working with the City Attorney's Office to look at ways to make the policy more effective in view of labor agreements.
12. Return to Council with demolition process	Developed new demolition process to include additional noticing requirements and involvement by City Attorney, City Administrator, and Council report. Provided information in 11/29 CED committee report.
13. Process to assist property owners	Changed procedures to provide increased assistance to property owners. For gap areas, staff is developing a resource guide with non-City resources.
14. Process on addressing appeal requests never responded to	Notices to any affected property owners will be issued by 12/15/11. In addition, announcements in the Oakland Tribune and on the City website will be provided to the public. Based upon records, CEDA has recalled fees placed on property taxes on billing appeals that are pending an appeal hearing.
15. Develop clear instruction on appeals going forward	Completed instructions to staff on new appeal process.
16. Return to Council on policy areas, i.e. prioritizing enforcement (based upon public safety concerns); incorporation of state law; professional standards for inspectors	Preliminary policy areas are provided in 11/29/11 report. Based upon best practice research being conducted and feedback from new Task Force, staff will return with comprehensive information in March/April 2012.
Additional Change Items	Implementation Completion Status
1. Organizational Culture Change	<ul style="list-style-type: none"> • Identified staff leadership team; meeting weekly to address priority change needs and align implementation details with new program design and goals. • Developed staff understanding and support of new program goals for code enforcement—public health and safety and community revitalization. • Developed staff leadership in new orientation to customer relations and problem-solving role. • Staff proactively identifying specific ways to assist

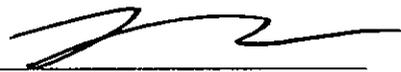
	<p>property owners and new strategies to meet community revitalization, public safety and health goals</p> <ul style="list-style-type: none"> • Holding regular proactive strategy discussions within Building Services staff and with City Attorney's office and Housing Division • County Public Health Department staff conducted training for inspectors on health related inspection issues.
2. Remediating Specific Cases	<ul style="list-style-type: none"> • Staff has been meeting with different property owners to resolve specific issues. Liens have been pulled from property taxes for several cases.
3. Due Process (Notices, Liens, Fees, Fines, and Appeals)	<ul style="list-style-type: none"> • Building Services staff has stopped conducting appeal hearings. • The City Administrator's office has designated non-CEDA staff to serve as the interim appeal hearing officers. • Prospective liens have been banned. • Notices are now also posted on the properties. • Draft new blight notices have been developed to be more user-friendly based upon best practice information. While awaiting the Council appointment of Task Force members, staff will convene a focus group comprised of interested property owners to solicit feedback on the new notices. • Courtesy notices have been developed and implemented. • New notices and procedures for addressing bank-owned blighted properties have been developed and implemented.
4. Policies and Procedures	<ul style="list-style-type: none"> • Implemented new program goals. • Developed preliminary program design for code enforcement while awaiting best practices research. • Implemented a new courtesy notice and owner self-certification procedure for minor blight violations. • Developed new abatement procedures that distinguish owner-occupants, landlords, and "institutional" owners and beginning implementation immediately per CED committee feedback. • Developed new strategies to assist property owners with difficulties. • Developing alternative collections mechanism including addressing abandoned properties with old liens. • Completed preliminary best practice research scan of 27 jurisdictions with proactive inspections.

5. Proactive Inspections Based Upon Collaborative Planning	<ul style="list-style-type: none">• Developed model pilot program of proactive inspections of lender-owned properties.• Developing new pilot public health program with Alameda County Public Health and Lead Prevention Poisoning.
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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Council accepts this report and approves the proposed resolutions on the above items.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator
Community and Economic Development Agency

Prepared by:

Raymond M. Dermania
Deputy Director - Building Official
Building Services Division

Margaretta Lijn
Special Projects Director
Community and Economic Development Agency

**APPROVED AND FORWARDED TO
THE CITY COUNCIL:**


Office of the City Administrator

DRAFT

City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 DEC -1 PM 5:21
OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION APPROVING A REPORT FROM THE CITY ADMINISTRATOR IMPLEMENTING BUILDING SERVICES DIVISION ("BSD") PRIORITY IMPROVEMENT ITEMS IN RESPONSE TO THE MOTION OF THE CITY COUNCIL ADOPTED AT THE SEPTEMBER 20, 2011 CITY COUNCIL MEETING, INCLUDING, NEUTRAL APPEALS PROCESS FOR CODE ENFORCEMENT APPEALS, DISCONTINUING PROSPECTIVE CODE ENFORCEMENT LIENS, REVISING CONFLICT OF INTEREST POLICY FOR OUTSIDE EMPLOYMENT FOR THE BSD, AND CONDUCTING AN FURTHER INVESTIGATION OF BSD, AND APPROVING A REQUIREMENT TO REBID CHANGE ORDERS ABOVE TEN PERCENT FOR CERTAIN BSD CONTRACTS IN EXCESS OF \$1,000 AND ADOPTING AN AMNESTY PROGRAM FOR CERTAIN BSD PENALTIES AND INTEREST

WHEREAS, the City of Oakland is committed to improving the operations and services of the Building Services Division within the Community and Economic Development Agency; and

WHEREAS, in June 2011, the Alameda County Civil Grand Jury issued a report and a series of recommendations regarding improvement priorities for the Building Services Division; and

WHEREAS, in September 2011, the City of Oakland provided a final response to the Grand Jury's report agreeing with most of the recommendations and providing information on its improvement plan; and

WHEREAS, on September 20, 2011, the Oakland City Council issued a motion regarding priority improvement areas for the Building Services Division and requested staff to return with information, proposed recommendations and accompanying resolution; and

WHEREAS, staff has provided an accompanying staff report and proposed recommendations; now, therefore be it

RESOLVED, that the contracts for services obtained to abate blight include a provision that requires change orders not to exceed 10% for such contracts greater than \$1,000 without rebidding the contract, but with the following exemptions: the clean-up of hazardous materials and to address other health and safety needs; and be it

FURTHER RESOLVED, that the City Council accepts the report from the City Administrator accompanying this Resolution that contains the following key administrative changes in administrative procedures:

- That Building Services code enforcement appeals be conducted by non-Building Services staff;
- That the use of prospective liens will be discontinued and a policy will be established that priority liens can only be placed on properties after notification and the failure to abate have been documented;
- That the City Administrator will conduct an independent investigation of Building Services processes, including an A to Z management review;
- That the City Administrator will approve any demolition prior to its occurrence;
- That the City Administrator develops or amends existing conflict of interest requirements to address the outside employment of City code enforcement staff that may create a conflict of interest; and be it

FURTHER RESOLVED, that an amnesty program is hereby authorized to provide the opportunity for certain residential property owners who received blight abatement notices beginning in Fiscal Year 2006-2007, to then have all additional fees, penalties and interest forgiven and attendant liens removed, if such property owner abates the conditions and pays the original fees within four months after the date he or she is sent notice of this amnesty program. This program shall not apply to properties owned by lenders, banks, mortgage companies, or their affiliates, subsidiaries, or agents; and be it

FURTHER RESOLVED, that the above amnesty program be provided to property owners who have received a Notice of Default for a loan from a financial institution and can document that unpaid liens are creating financial hardships that are contributing to the potential foreclosure of property, and if such property owners abate the blighted conditions and pay the original fees, then the City shall forgive all additional fees, penalties and interest and remove attendant liens on the property; and be it

FURTHER RESOLVED, that staff report back to the City Council on other code enforcement policy areas including: the prioritization of code enforcement on public safety concerns, the incorporation of applicable state law, and professional standards for inspectors; and be it

FURTHER RESOLVED, that the City Administrator review the applicable municipal codes to make recommendations as needed for changes in order to implement the policies set out in this resolution with review by the City Attorney as required by the City Charter.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

**AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and
PRESIDENT REID**

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California