

# LAST MINUTE AGENDA INFORMATION

## 10/05/11 Regular Meeting

*(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the October 5, 2011 Regular meeting.)*

**ITEM NO.**      **DESCRIPTION**

<b>2.3</b>	RESOLUTION NO. 2011-7088 APPROVING THE FISCAL YEAR 2011-12 AND FISCAL YEAR 2012-13 SALARY AND COMPENSATION PLAN FOR ALL EMPLOYEES AND RECOGNIZING THOSE CLASSIFICATIONS REPRESENTED BY THE SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 221, CTW, CLC AND THE IMPERIAL BEACH FIREFIGHTERS ASSOCIATION. (0520-75) a. Corrected Page 4 of the FY 2011-13 Salary & Compensation Plan
<b>5.3</b>	NUISANCE ABATEMENT – ADOPTION OF RESOLUTION NO. 2011-7097 FINDING AND DECLARING THAT THE NOTICE AND ORDER TO ELIMINATE SUBSTANDARD AND PUBLIC NUISANCE CONDITION(S), REGARDING THE PROPERTY AT 741 HICKORY COURT IS APPROPRIATE AND AUTHORIZING STAFF TO CONTINUE TO MONITOR THE PROPERTY FOR COMPLIANCE WITH THE IMPERIAL BEACH MUNICIPAL CODE, AND TO RECORD A NOTICE OF VIOLATION WITH THE OFFICE OF THE COUNTY RECORDER. (0470-20) a. Revised Department Recommendation (Page 2 of Staff Report) b. Revised Resolution No. 2011-7097

Memorandum of Understanding. Employees who elect not to be covered under the City's health and dental insurance plan must demonstrate proof of alternative medical and dental coverage (i.e. spouse coverage).

Effective January 1, 2012 and January 1, 2013.

**Effective July 1, 2011**

Miscellaneous Classified Service:

\$825 per month (\$9,900 per plan year)

Public Safety Service (Fire):

\$825 per month (\$9,900 per plan year)

**Effective July 1, 2012**

Miscellaneous Classified Service

\$855 per month (\$10,260 per plan year)

Public Safety Service (Fire)

\$855 per month (\$10,260 per plan year)

2. Flexible Spending Plan: An employee who elects to be covered under the City's health insurance plan, must select single employee coverage under the City's dental care provider. This selection is required to be eligible to take advantage of the City's Flexible Spending Accounts (FSAs) for Health Care and Dependent Care. This selection will ensure that no Third Party Administrator (TPA) administrative costs are associated with Employee's participation as described under Subpart "e" of this Section.

a. Health and Dental Payroll Deductions Treated as Pre-Tax: All payroll deductions for health and dental care are treated by the CITY on a pre-tax basis in order for the City to meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued. In the event that the total cost of benefits exceeds the allowance, the difference shall be deducted from the Employee's salary as a salary reduction. If the allowance exceeds the total cost of benefits selected, the difference shall be to the Employee as taxable income.

b. Flexible Spending Accounts for Health Care and Dependent Care: Two Flexible Spending Accounts (FSA's), under Section 125, 105, 129 and 213 of the Internal Revenue Services Code, are offered to all represented employees. An Employee may elect to budget by salary reduction, for certain health and welfare benefits and dependent care reimbursements on a pre-tax basis. If the City does not meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued.

c. Health and Welfare FSA: Before the start of the FSA plan year (January 1 to December 31), represented employees may reduce their salary up to maximum of \$1,040 per plan year to pay for eligible health and welfare expenses. Salary reductions will accrue bi-weekly during the plan year and reimbursements will be made on a schedule to be determined by the City. This is a reimbursement program. Participating employees must submit documentation of payment on the appropriate forms to receive reimbursement. Salary reductions not spent by the end of the plan year, by law, are forfeited to the City.

d. Dependent Care FSA: Before the start of the FSA plan year (January 1 to December 31), represented employees may reduce their salary up to a maximum of \$5,000 per plan year to pay for eligible dependent care. In no event can dependent care pre-tax

**DEPARTMENT RECOMMENDATION:**

As an alternative, staff is recommending a modified enforcement by recording a Notice of Violation with the office of the County Recorder, and allowing the property owner time to correct the violations when they are financially able to. Staff will monitor the property for compliance. When the violations are corrected staff shall remove the recorded Notice of Violation. Staff is further recommending the civil penalties that have accrued be held in abeyance until further decision or order by the City Council.

Staff Recommends the Mayor and City Council:

1. Declare the public hearing open, and receive the report.
2. Entertain any objections or protests.
3. Close the Public Hearing.
4. Consider adopting Resolution No. 2011-7097 finding and declaring the notice and order to eliminate substandard and public nuisance condition(s) is appropriate, determining that the conditions exist which constitute substandard and public nuisance conditions, ordering the abatement of substandard and public nuisance conditions, and authorizing the city manager or city manager's designee to continue to monitor the property for compliance with the Imperial Beach Municipal Code, and to record a Notice of Violation with the office of the County Recorder.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.

  
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 Gary Brown, City Manager

Attachments:  
Draft Resolution No. 2011-7097

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 2011 OCT -4 P 3:31  
 CITY MANAGER/PERSONNEL  
 CITY CLERK OFFICES

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RESOLUTION NO. 2011-7097

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND DECLARING THAT THE NOTICE AND ORDER TO ELIMINATE SUBSTANDARD AND PUBLIC NUISANCE CONDITION(S), REGARDING THE PROPERTY AT 741 HICKORY COURT IS APPROPRIATE, DETERMINING THAT THE CONDITIONS EXIST WHICH CONSTITUTE SUBSTANDARD AND PUBLIC NUISANCE CONDITIONS, ORDERING THE ABATEMENT OF SUBSTANDARD AND PUBLIC NUISANCE CONDITIONS, AND DIRECTING THE CITY MANAGER OR CITY MANAGER'S DESIGNEE TO CONTINUE TO MONITOR THE PROPERTY FOR COMPLIANCE WITH THE IMPERIAL BEACH MUNICIPAL CODE, AND TO RECORD A NOTICE OF VIOLATION WITH THE OFFICE OF THE COUNTY RECORDER

**WHEREAS**, The property at 741 Hickory Court has been the subject of an ongoing Code Compliance Case since March 17, 2010 when staff received two citizen complaints regarding property conditions. The violations of the following sections of the Imperial Beach Municipal Code were identified on the property:

1. **IBMC 1.16.010.U.** "Visual Blight".
2. **IBMC 1.16.010.R.** Property maintenance constituting a public nuisance (roof in disrepair).
3. **IBMC 8.44.020.** Inoperable or abandon vehicles may not be stored on property; and

**WHEREAS**, On May 9, 2011, staff posted and served the property owner with a notice to eliminate substandard and public nuisance conditions on the property by May 18, 2011. The owner was notified by mail that a public hearing was scheduled for the same date; and

**WHEREAS**, On May 18, 2011, at the City Council meeting, the Council voted to continue the public hearing to the June 15, 2011, City Council meeting and to temporarily suspend the accrual of civil penalties; and

**WHEREAS**, On June 15, 2011, at the City Council meeting, the City Council voted to continue the public hearing to October 5, 2011, to allow the owner additional time to correct the violations; and

**WHEREAS**, On September 26, 2011, staff conducted a drive-by inspection and observed that the roof has not been repaired and continues to be covered by a blue tarp, and that the inoperable vehicle in the driveway is covered by a shredded unsightly car cover. Staff also noted that there is a trash bag in the driveway. These violations are continued from March 2010; and

**WHEREAS**, On September 27, 2011, staff contacted property owner. Miguel Del Rosal, Mr. Del Rosal, advised staff that his wife has been patching sections of the roof. Staff left a message for Donna Musick-Del Rosal, but at the time of this staff report she had not returned staff's call; and

**WHEREAS**, testimony was presented to the City Council at the public hearing on October 5, 2011 regarding conditions at 741 Hickory Court; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach as follows:

**SECTION 1:** The foregoing recitals are true and correct, the City Council hereby concurs with the Finding and Declaring the Notice and Order to Eliminate Substandard and Public Nuisance Condition(s) is appropriate, and the City Council determines that conditions exist which constitute substandard and public nuisance conditions, pursuant to Chapters 8.44 Nuisance Vehicles, 8.50 additional Substandard Conditions, and Chapter 1.16 Property Maintenance, of the Imperial Beach Municipal Code and the assessment of civil penalties.

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SECTION 2: The owner or other person controlling the Property is ordered to abate the Nuisance Conditions on the Property by:

1. Removing all of the junk, trash, and debris littered in the yards,
2. Remove the tarps from the roof and repair the deteriorated portions of the roof, and
3. Remove all of the inoperable vehicles from the property

The owner or other person controlling the Property is ordered to abate the nuisance conditions on or before October 3, 2012.

SECTION 3: The City Manager or the City Manager's designee is ordered to continue to monitor compliance of the owner or other person controlling the Property with this order to abate the Nuisance Conditions on the Property and to record a Notice of Violation with the Office of the County Recorder.

SECTION 4: The City Manager shall provide the City Council a status report regarding compliance of the owner or other person controlling the Property with this order to abate the Nuisance Conditions on the Property on October 3, 2012.

SECTION 5: The City Council reserves the authority, pursuant to Imperial Beach Municipal Code section 1.16.180, to authorize the City Manager or the City Manager's designee to cause the abatement of the Nuisance Conditions to be completed by City forces or private contract if the owner or other person controlling the Property fails to abate the Nuisance Conditions on the Property.

SECTION 6: The City Council reserves the authority, pursuant to Imperial Beach Municipal Code sections 1.16.190 through 1.16.240, to seek recovery of the costs of abatement.

SECTION 7: Accrual of civil penalties at \$50.00 per day per violation from May 9, 2011 to May 18, 2011, accrued as follows:

1. May 9, 2011 to May 18, 2011 – 9 days (3 violations) @ \$50.00 per day per violation = \$1,350.00

The One Thousand Three Hundred Fifty dollars (\$1,350.00) in current civil penalties shall be held in abeyance until further decision or order by the City Council.

SECTION 8: The City Council reserves the authority, pursuant to Imperial Beach Municipal Code section 1.16.150, to authorize staff to seek legal action to either compel the owner or other person controlling the Property to abate the nuisance conditions on the Property or to obtain an abatement warrant to cause the abatement to be completed by City forces or private contract.

SECTION 9: The City Manager may cause a copy or copies of this Resolution to be conspicuously posted, as the City Manager may deem necessary.

SECTION 10: The City Clerk is hereby directed to:

1. Mail a copy or copies of this Resolution, by first class mail, to the owner(s) of the above-described property as shown in the last equalized assessment roll;
2. Inform the property owner, by copy of this Resolution, that the time within which

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judicial review of this decision must be sought is governed by §1094.6 of the California Code of Civil Procedure. The property owner's right to appeal this decision is governed by California Code of Civil Procedure §1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held on the 5<sup>th</sup> day of October 2011, by the following vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

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**JAMES C. JANNEY, MAYOR**

**ATTEST:**

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**JACQUELINE M. HALD, CMC**  
**CITY CLERK**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2011-7097 – A Resolution of the City Council of the City of Imperial Beach, California, FINDING AND DECLARING THAT THE NOTICE AND ORDER TO ELIMINATE SUBSTANDARD AND PUBLIC NUISANCE CONDITION(S), REGARDING THE PROPERTY AT 741 HICKORY COURT IS APPROPRIATE, DETERMING THAT THE CONDITIONS EXIST WHICH CONSTITUTE SUBSTANDARD AND PUBLIC NUISANCE CONDITIONS, ORDERING THE ABATEMENT OF SUBSTANDARD AND PUBLIC NUISANCE CONDITIONS AND DIRECTING THE CITY MANAGER OR CITY MANAGER'S DESIGNEE TO CONTINUE TO MONITOR THE PROPERTY FOR COMPLIANCE WITH THE IMPERIAL BEACH MUNICIPAL CODE, AND TO RECORD A NOTICE OF VIOLATION WITH THE OFFICE OF THE COUNTY RECORDER.

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CITY CLERK

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DATE

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