



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
DEPARTMENT OF PUBLIC WORKS
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Director of Public Works

File:

NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: September 22, 2020

TO: Board of Supervisors

FROM: Trisha Tillotson, Director of Public Works

SUBJECT: Resolution Making Findings and Denying the Appeal Filed by Larry and Cheryl Andresen Regarding an Encroachment Permit Violation on Floriston Avenue, District V

RECOMMENDATION: Allow for a public hearing to include a staff presentation, statements from the impacted property owners, a presentation by the Appellant, and public comment. Adopt a resolution denying the appeal.

FUNDING: The cost of enforcement by the Public Works Department was incurred in FY 19/20. Any reimbursement for the cost of enforcement and payment of a fine would impact the FY 20/21 Engineering budget. A budget amendment is not needed.

BACKGROUND: On November 26, 2019, Mr. Larry Andresen was observed working on Floriston Avenue, a County unmaintained road right of way, without a permit. Permitted railroad ties and personal property were removed from the front of 10949 Floriston Avenue, a permitted landscape barrier and landscaping were removed from the front of 10941 Floriston Avenue, and water utilities owned by the Truckee Donner Public Utility District and the owners of 10941 and 10949 Floriston Avenue were buried and damaged. Significant evidence was submitted of the unpermitted work, including pictures of Mr. Andresen doing the work. A letter notifying Mr. Andresen to cease and desist all unpermitted work in the County right of way was issued on December 3, 2019. A follow up letter was issued on December 20, 2019, requiring restoration of the roadway, relocation of the water utilities that are now in the travel path and not designed for it, and payment of enforcement in the amount of \$970.02, plus a mandatory fine of \$100 per Section G-IV-4.A.43 of the Nevada County General Code. To date, the applicant has not complied with the requirements of the December 20, 2019, letter requiring restoration and repair of the removed/damaged items listed above.

The applicant is appealing the following three specific provisions:

1. The County's determination that the applicant violated the Nevada County General Code Section G-IV 4.A.

Staff response:

- a. There are several eye-witness accounts and pictures showing the applicant working in the county road right of way without a permit.

2. Imposition of enforcement fines totaling \$1,070.02 and imposition of restoration, relocation, replacement and repair of work.

Staff response:

- a. The fine of \$100 is mandatory per County General Code Section G-IV 4.A Regulating Roadway Encroachments Section G-IV 4.A.39 Violations/infractions and the \$970.02 is the cost of enforcement per Section G-IV 4.A.43 Cost of Enforcement
 - b. In addition, per the California Streets and Highways Code, Division 2. County Highways:
 - 1) Section 1460, any person who does work in the county highway without a permit is guilty of a misdemeanor and is liable to the agency for expenses and damages caused.
 - 2) Section 1495, any person who destroys a tree on a county highway is liable to a penalty of \$100.
3. The attachment to new conditions on the applicant's pending application, which is equivalent to the imposition of a fine, and which will cost in excess of \$14,900 to complete.

Staff response:

- a. No conditions were developed as part of the application as the permit was not and has not been issued. Work occurred without a permit removing permitted encroachments, causing damage to property, and damaging a water utility. The County road right of way must be restored per Section G-IV 4.A.29 Restoring Highway and the water utilities relocated as a result of the applicant's unpermitted work per Section G-IV 4.A.32 Relocation of Facilities.

A resolution consistent with the recommendation to deny the appeal is attached.

Item Initiated and Approved by: Trisha Tillotson, Director of Public Works

Submittal Date: September 3, 2020

Revision Date: