



Legislation Text

File #: 19-771, Version: 1

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SUBJECT: Public Hearing to Consider Work and Expense Report for the Abatement Work Done for 636, 638 and 640 West Main Street (Abatement of Public Nuisance and Demolition of Building) and Assess a Charge Therefor Against the Property and Approving a Lien Against the Property on Assessed Roll as a Special Assessment

REPORT IN BRIEF

Requests the City Council to conduct a Public Hearing and consider adopting a resolution approving the work and expense report for the abatement work done for 636, 638 and 640 West Main Street, assessing a charge therefor against the property and approving a lien against the property.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2020-01**, a Resolution of the City Council of the City of Merced, California, confirming the cost assessment report relating to the nuisance abatement at 636, 638 and 640 (APN 031-134-003) West Main Street, Merced, California, assessing a charge therefor against the property, approving a lien against the property, directing the Tax Collector of the Merced County to collect the delinquent account, and directing the City Clerk to file a certified copy of this Resolution with the County Recorder to provide notice of the lien; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute all necessary documents.

ALTERNATIVES

1. Approve as recommended by staff; or
2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in City Council motion); or,
3. Deny; or
4. Refer to City Staff for reconsideration of specific items (to be addressed in City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

Merced Municipal Code Section 17.16.010.

Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings:

Section 901 of the Uniform Code for the Abatement of Dangerous Buildings states as

follows:

“The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.”

Section 902 provides that the clerk shall present the itemized account of the expense to the legislative body of the jurisdiction for consideration. The legislative body shall set a date for a hearing to hear the report and any protests or objections thereto. The clerk shall cause notice of said hearing and such notice shall be given at least ten days prior to the date of said hearing.

Section 904 provides that upon the hearing of the matter, the legislative body shall make any such revision, correction, or modification in the report or the charge as it may deem just, and shall confirm or reject the report.

Section 905.1 provides that the legislative body may order the charge be made a personal obligation of the property owner or assess said charge against the property involved. If the legislative body opts to make the charge a personal obligation, it shall direct the attorney for the jurisdiction to collect the amount by use of all appropriate legal remedies. If the legislative body orders that the charge be assessed against the property, it shall confirm the assessment, cause it to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

CITY COUNCIL PRIORITIES

This action is consistent with the City Council’s priority to address substandard properties within the City that pose immediate threats to health and public safety.

DISCUSSION

The City has adopted the Uniform Code for the Abatement of Dangerous Buildings as part of the Merced Municipal Code at Section 17.16.010. The Uniform Code for the Abatement of Dangerous Buildings defines what constitutes dangerous buildings and provides a procedure for identifying dangerous buildings and either making them safe or demolishing them. The Code also provides for notice of violations to the owner(s) of the property and notice of their appeal rights. Finally, as described in the “Authority” section of this report, if the City is forced to abate a nuisance condition, when the abatement is complete, the Code provides for the collection by the City of the costs of abatement.

History of Abatement of Nuisance on the Property

The subject property is a former restaurant in downtown Merced located at 636, 638 and 640 West Main Street, Assessor’s Parcel Number 031-134-003 (the “Property”). The restaurant has not been in

operation since approximately November 2015. In late 2016, two separate fires damaged the Property. The first fire occurred on November 18, 2016 and burned the back patio area of the Property. The second fire occurred on December 18, 2016, at the UC Oriental Market ("Market"), which was a zero-lot-line building adjacent to the Property. The fire caused irreparable damage to the Market and significant structural damage to the Property. The front façade of the Property had a large systemic stress fracture that was supported by unreinforced masonry. As such, the front façade was at risk of collapsing into the interior of the Property and/or onto the public sidewalk in front of the Property. In addition, an exterior wall of the former Market building, which was partially conjoined with the Property, was being braced to prevent it from collapsing and to provide support for an exterior wall of the Property.

Since November 2016, the Property remained in a dangerous and substandard condition due to extensive fire damage. The Property quickly became an eyesore in the core downtown area, constituting blight and attracting transients for unsafe activities. On July 12, 2018, the City declared the condition of the Property a public nuisance and issued a Notice and Order to Abate the unlawful and dangerous conditions. The Property owner filed an appeal; and, on February 5, 2019, following a hearing, the City's Building and Housing Appeals Board denied the owner's appeal and upheld the Notice and Order to Abate.

On April 24, 2019, the Merced Superior Court ("Court") issued the City a Warrant to inspect and abate the Property by demolition. The ensuing inspection and demolition proved complex, and the City was granted four extensions to the original Warrant by the Court. The City hired ET Abatement Inc. to perform asbestos abatement work on the Property. Pelton Wylie Engineering Inc. was hired to determine the structural integrity of the wall shared by the Property and the adjacent Market, and to plan for demolition considering the shared wall. The City also hired Commercial Construction Co. to shore up the shared wall in order to prepare the Property for demolition and Unruh Bobcat Service to ultimately demolish the Property and abate the nuisance. On October 25, 2019, the City completed the abatement of the public nuisance by demolishing the building on the Property pursuant to and in accordance with the Uniform Code for the Abatement of Dangerous Buildings.

The City has expended funds for the cost of demolition, for staff time involved in the inspections and securing of the building, and the process of obtaining authority from the Court to abate the nuisance on the Property as set forth in Attachment "A" hereto.

As addressed in the "Authority" section of this report, if the City wishes to recover its costs with regard to the abatement, the City Council must review and approve the accounting of the costs presented after a public hearing and after hearing any protests or objections to the cost accounting. The City Council may make changes it deems to be just. Once the City Council has approved the cost report and the charge based thereon, the City Council may order that the charge be made a special assessment and lien against the Property.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Cost Assessment Report - Public Nuisance Abatement by the City of Merced Pertaining to 636, 638 and 640 West Main Street

2. Resolution Confirming Costs Assessment Report
3. Presentation