



Legislation Text

File #: 20-158, Version: 1

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SUBJECT: Public Hearing to Consider Work and Expense Report for the Abatement Work Done for 1716 East 23rd 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 1716 East 23rd Street, assessing a charge therefor against the property and approving a lien against the property.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2020-09**, a Resolution of the City Council of the City of Merced, California, confirming the cost assessment report relating to the nuisance abatement at 1716 (APN 034-063-006) East 23rd Street, Merced, California, assessing a charge therefor against the property, approving a lien against the property, directing the Tax Collector of 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 was a single-family residence in Merced located at 1716 East 23rd Street,

Assessor's Parcel Number 034-063-006 (the "Property"). The residence was built sometime around 1952 and at the time of the abatement had existed for several years in an extremely substandard, hazardous and dilapidated condition. The City initially posted/red-tagged the Property as uninhabitable and unsafe to enter in 2006; it was reposted as such on multiple occasions over the past 13 years. The Property was an eyesore constituting blight upon the surrounding neighborhood and attracting transients for unsafe activities. In February 2017, the Property became the focus of law and code enforcement efforts.

In October 2017, the Chief Building Official issued a Notice and Order to vacate and demolish the Property by November 12, 2017, which the Property owner failed to do. On January 2, 2019, a second Notice and Order to Abate approximately 29 violations of state and local law was served on the Property owner. Again, the Property owner ignored the Notice and Order and did not comply or appeal by the deadlines. On February 20, 2019, upon request of the City, the Merced Superior Court issued a Warrant to inspect and abate the Property by demolition. The City hired Unruh Bobcat Service to demolish the Property and abate the nuisances. On March 7, 2019, the City demolished the single-family residence on the Property pursuant to and in accordance with the Uniform Code for the Abatement of Dangerous Buildings. Additionally, all other trash and debris was removed, leaving a clean and vacant lot.

Since March 2019, the Property owner has lived out of a tent on the Property. Over the past ten months, City Code Enforcement has cited the Property owner for several violations of state and local law, and police have responded to seventeen calls regarding the Property. To date, the Property remains unsecured and beset with trash, debris, discarded appliances, mattresses, and fire hazards. It is an eyesore and a blight on the neighborhood. The Property continues to deteriorate and is an attractive nuisance to outsiders who may enter it and be subject to serious risk of harm given the Property's unsafe and unsanitary conditions. On November 19, 2019, the Chief Building Official issued a Notice and Order to abate the public nuisances on the Property. The Property owner was given until January 19, 2020 to comply, which he failed to do. The City filed a petition with the Court for appointment of a receiver on February 26, 2020, and a hearing on the matter is set for March 16, 2020.

The City has expended funds for the cost of demolition, for staff time involved in the inspections of the building, for police calls to the Property, and the process of obtaining authority from the court to abate the nuisance on the Property. There were additional costs for staff time responding to complaints and citing the continuing violations on the Property post-demolition. All expenditures are set forth in Attachment "1" 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 1716 East 23rd Street
2. Resolution Confirming Cost Assessment Report