



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: December 19, 2017

DEPARTMENT: CITY ATTORNEY'S OFFICE

FROM: Christopher A. Callihan, City Attorney
Anais Martinez Aquino, Senior Deputy City Attorney

TITLE: PUBLIC NUISANCE, ABATEMENT OF A DANGEROUS BUILDING, AND CONFIRMATION OF ABATEMENT COSTS
45 SOLEDAD STREET, SALINAS

RECOMMENDED MOTION:

A motion to approve the proposed Resolution finding that the structure located at 45 Soledad Street, Salinas, California constituted an imminent emergency and public nuisance, confirming the abatement and removal of the building, and confirming the costs of abatement.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed Resolution.

EXECUTIVE SUMMARY:

In March 2016, a four-alarm fire started at a vacant two-story building located at 45 Soledad Street (the "Property"). After the fire, the City's Building Official issued a written Notice of Violation indicating that the building was substantially dangerous and ordering immediate demolition. Without any action by responsible parties to address the imminent emergency, the City sought and obtained an order from Monterey County Superior Court to demolish what remained of the structure at a cost of over \$390,000. The proposed Resolution declares that as a result of the fire the condition of the Property created an imminent emergency amounting to a public nuisance, confirms the abatement of the public nuisance, and confirms the costs expended in order to abate the public nuisance. Further, the proposed Resolution directs staff to obtain cost recovery by lien, special assessment, or any other means available at the discretion of the City Attorney.

BACKGROUND:

On March 18, 2017, the Salinas Fire Department responded to a large structure fire at 45 Soledad Street in the city of Salinas. The fire was at the site of the former Swinging Door Motel, a two-story brick masonry building, which had been vacant for several years. At the conclusion of the fire, only three exterior walls remained standing. These exterior walls had no horizontal support because both the roof and second floor had collapsed from the fire. The City's Building Official,

Joseph DeSante, visited the site and determined that the remaining walls were at imminent risk of collapse, posing a significant risk to the safety and security of the public. Mr. DeSante issued a Notice of Violation on March 23, 2017 regarding the dangerous condition of the Property and ordering an immediate abatement of the Property pursuant to the California Building Code. The Notice of Violation was issued to RANN, LLC, the property owner of record at the time. Mr. DeSante also caused a Notice of Pendency to be recorded on title to the Property, thereby placing the public and all interested parties on notice of the existence of building code violations. Despite such findings and orders, the owner did nothing to abate the dangerous condition of the Property or to abate the emergency which the Property created.

During this time, and in an attempt to secure the Property and begin its own abatement of the dangerous condition, the City explored purchasing the Property from its then owner. The possible purchase was discussed in advance with Chinatown stakeholders, including the Property's immediate adjacent neighbor, Victory Mission LLC. Ultimately, the owner did not sell the Property to the City; the City then moved forward with options to abate the dangerous condition of the Property and the attendant immediate health and safety concerns posed by the Property. The City's abatement plans, such as street closures and construction timelines, were discussed with the property owner and all affected neighbors, including the Victory Mission.

With the support of the Fire Marshal and Building Official, the City Attorney's Office sought and obtained an order from Monterey County Superior Court on June 12, 2017, authorizing the abatement of the remaining walls and thus immediately addressing the public nuisance and eliminating the risk that the remaining walls would collapse, causing injury to persons or property, to be completed within 14 days. Later that day, the City learned that Victory Mission had purchased the Property from RANN, LLC. In light of this information, the City sent notice of its intent to conduct the emergency abatement work at the Property to both RANN, LLC and Victory Mission and made telephone contact with Ken Cusson, Executive Director of Victory Mission. Mr. Cusson acknowledged by phone the City's intent to proceed with demolition and Victory Mission's responsibility for repayment. Mr. Cusson did not request the City delay or reschedule its planned abatement, nor did he provide any information regarding the Victory Mission's immediate plans to abate the dangerous structure itself. With this information, the City had no choice but to continue with its plans for abatement. Notice of the emergency abatement was provided by mail to Victory Mission and by posting on the Property.

Public Works and Code Enforcement lead the effort to contract for the abatement work at the Property. Staff contracted with a demolition contractor, Randazzo Enterprises, Inc., who completed the abatement work on July 30, 2017. Abatement costs totaled \$390,290.73, which included the cost of abatement, completely clearing the Property of asbestos material, fencing to secure the job site, and staff time. The City sent demands for repayment to Victory Mission on September 18, 2017 and on October 20, 2017. Despite the City's best efforts, responsible parties have not responded to the City's demands for repayment of these costs. On November 17, 2017, the City provided notice to Victory Mission of the December 19, 2017 public hearing.

The proposed Resolution confirms the City Council's finding that the building, before it was demolished, posed an imminent risk of collapse and posed an emergency to the community at large. Based on violations of the California Building Code, a finding that the building was a public

nuisance is also appropriate. The proposed Resolution confirms that abatement was appropriate in light of the risk posed by the Property. Lastly, the proposed Resolution confirms that the City expended \$390,290.73 in abatement costs and authorizes the City Attorney to seek cost recovery of those amounts pursuant to the authority granted under state law and the Salinas Municipal Code.

CEQA CONSIDERATION:

Statutory Exemption. This City of Salinas has determined that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), as there is no potential to cause a significant effect on the environment.

STRATEGIC PLAN INITIATIVE:

This Resolution supports the City Council's initiative promoting a safe, livable community.

FISCAL AND SUSTAINABILITY IMPACT:

The City has already expended over \$390,000 to abate the public nuisance at this property. Adoption of the Resolution will support the City's efforts to recover its costs expended.

ATTACHMENTS:

Notice of Violation, dated March 23, 2017

Notice of Pendency, recorded April 3, 2017

E-mails to Ken Cusson from Don Reynolds regarding Pre-Construction at 45 Soledad St., dated May 31, 2017 and June 1, 2017

Emergency Abatement Notice, dated June 12, 2017

Invoices 045324 and 045364 from Randazzo Enterprises, Inc.

Demand Letters from City to Victory Mission, dated September 19, 2017 and October 20, 2017

Notice of Public Hearing, dated November 17, 2017

Resolution