



DATE: December 1, 2020

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT: Adopt a Resolution Confirming the Report of Lien/Special Assessment for Administrative Cost Recovery of Summary Abatement Demolition for the Property Located at 29827 Mission Boulevard, Assessor's Parcel Number 078G-2651-012-08 (former Holiday Bowl site)

RECOMMENDATION

That Council adopts a resolution (Attachment II) confirming the report of lien/special assessment for administrative cost recovery of the summarily abated unsafe structure, located at 29827 Mission Boulevard.

SUMMARY

In accordance with Hayward Municipal Code, Chapter 7, Sec 5-7.100 (HMC), staff requests that Council review the attached lien/special assessment report to confirm and approve the property lien to recover the cost of summary abatement for the property located at 29827 Mission Boulevard (former site of the Holiday Bowl). The purpose of this staff report is to provide information related to the events leading to the determination to summarily abate, and the cost of abatement to the property that was damaged due to a structure fire on July 17, 2020. Additionally, the purpose of this staff report is to provide clarity around adopted City and State Codes, which provide the City the authority to conduct summary abatement in response to conditions of life and safety on private property. Adoption of the attached resolution will officially confirm the costs to summarily abate the aforementioned property, and a special assessment lien will be filed with the County for recordation on property titles.

BACKGROUND

On July 17, 2020, Hayward Fire Department responded to a major fire incident at 29827 Mission Boulevard in Hayward. Due to the severity of damage to the structure and the presence of an active and ongoing fire incident, the Fire Chief (Fire Official) deemed the structure unsafe and initiated abatement services with a licensed demolition contractor to mitigate hazardous conditions, and ensure public health and safety at and around the site. In support of the Fire Official's determination, on July 21, 2020, Code Enforcement staff conducted an inspection of the site along with the City of Hayward Building Official. As a

result of the inspection conducted by the City Building Official, the primary structure was confirmed to be unsafe and severely compromised requiring complete demolition or significant reconstruction. Due to continuing flare ups associated with the structure fire identified by Hayward Fire Inspectors, full summary abatement was ordered and will proceed under the Fire Official's authority until abatement of the structure is completed.

Hayward's Community Preservation and Improvement Ordinance (Article 7, Chapter 5 of the Hayward Municipal Code (HMC)), otherwise known as the Community Preservation and Improvement Ordinance, makes it unlawful for Hayward property owners to allow the condition of their property to deteriorate to the point that it becomes detrimental to the public health, safety, or general welfare of the community. Section 5-7.65 – Summary Abatement By City of this same Ordinance, also provides for Summary Abatement by the City should the Enforcement Officer find that a violation constitutes an imminent danger to the public health or safety, he or she shall have the authority to abate the condition or cause the condition to be abated summarily and without notice. The expenses of such abatement shall become a lien or special assessment on the property and, if unpaid, collected as provided under Article 7, Chapter 5.

The City of Hayward's Building Abatement Ordinance Article 3 – Building Abatement, requires abatement of all buildings or portions thereof that are determined, after inspection by the Building Official, to be unsafe, substandard, and dangerous as defined in Article 3, and are to be declared a public nuisance and abated by repair, rehabilitation, demolition, or removal as specified in this code.

California Fire Code – Chapter 1- Scope and Administration, Section 111 - Unsafe Buildings provides for summary abatement authorization by the Fire Code Official or Fire Department Official in charge of the incident, authorizing summary abatement of hazardous conditions.

These ordinances provide staff an alternative method of enforcement, abatement, and collections for violations of the HMC and adopted California Building and Fire Codes. Further, these ordinances provide staff with defining characteristics on what constitutes an unsafe structure. An unsafe, substandard, and dangerous building is considered hazardous and unsafe to the public and surrounding community when the Building Official or Fire Official has declared it unsafe in accordance with adopted City and State Codes.

DISCUSSION

The City will incur a total of \$690,000 in costs related to the abatement of the subject property, which have not yet been reimbursed by the property owner (see CONS 20-545 for more information). These charges are listed in Exhibit "A" of Attachment II, Resolution. These unpaid charges, plus any administrative costs of the County, will become liens on the property titles, and are due when the property is sold or refinanced.

As part of the summary abatement process, staff sent the required Summary Abatement Notice and abatement invoice to the property owner in question. There were no tenants applicable in this case. The Summary Abatement notice informs the recipient of the violation

and unsafe conditions warranting summary abatement. Additionally, the first notice also provides the right to an Administrative Hearing to dispute the factual findings for the summary abatement. The notice was sent by first class mail with proof of service.

The second notice was in the form of an invoice listing all incurred costs for abatement and a required timeline by which to resolve fees. Also included in the invoice is the right to an administrative hearing to dispute the fee amounts listed.

No hearing request for the summary abatement notice or the abatement invoice was received by the City as of the date of this report.

A confirmed copy of the Nuisance Abatement/Municipal Code Violations form will be sent to the owner, tenant, and lender once received from the County Recorder's Office.

Adoption of the attached Resolution will officially record Council's confirmation of the cost of summary abatement as required by the HMC, Sec 5-7.100, and authorize staff to file a lien with the Alameda County Recorder's Office against the property located at 29827 Mission Boulevard, for full cost recovery of abatement costs incurred by the City for demolition of the unsafe structure.

ECONOMIC IMPACT

The filing of liens with the County Recorder's Office supports the Code Enforcement Division community preservation/rental inspection programs as well as Fire Department response to unsafe community structures to ensure well maintained, safe, and sanitary neighborhoods and properties, contributing to the overall economic health of the City.

FISCAL IMPACT

There is no negative fiscal impact to the City of Hayward resulting from this action. There will be 100% cost recovery reimbursement through the lien process. To change ownership of a property, a lien must be satisfied. If the property is sold or the owner refinances, the City will receive reimbursement. All reimbursed funds are allocated to the General Fund.

STRATEGIC ROADMAP

This agenda item is a routine operational item that does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

SUSTAINABILITY FEATURES

The recommended action for this report will not directly result in physical development; the purchase of a product or service; new policy or legislation related to sustainability. However, enforcement of the City's ordinances related to Community Preservation/Rental Housing programs, supports Hayward's 2040 General Plan in the overall goal for safe and cohesive

neighborhoods through healthy communities. General Plan guidelines related to this report are:

COMMUNITY HEALTH AND QUALITY OF LIFE GOALS:

GOAL 5: Safe and Cohesive Neighborhoods

HQL – 5.6 Maintenance of Private Property

PUBLIC CONTACT

Notice of City Council's confirmation of this report was published in The Daily Review on November 17th and November 23rd, 2020.

NEXT STEPS

Prepared by: Phillip Nichols, Code Enforcement Manager

Recommended by: Laura Simpson, Director of Development Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

Kelly McAdoo, City Manager