

March 21, 2024

MEMORANDUM TO: Honorable Mayor and City Council
THRU: Charles P. Potucek, City Manager
FROM: Nathan J. Williams, City Attorney
SUBJECT: Request for Agenda Item Placement
Resolution 2024-016, Authorization to Take Legal
Action Against Edwin Groover

Recommendation:

The City manager recommends approval.

Background:

On January 8, 2024, Edwin Groover recorded two "Security (15 U.S.C.) Claim of Commercial Lien and Affidavits" against the City of Sierra Vista (the "Liens"). The Liens have no basis in fact or law and are groundless. Absent a voluntary retraction of the Liens by Mr. Groover, the City's recourse is to file a special action in the Cochise County Superior Court against Mr. Groover to set aside the Liens pursuant to Arizona Revised Statutes § 33-420.

The City Attorney may pursue legal action but only if the Mayor and Council give direction to take such action. This resolution is intended to authorize the City Attorney to take the necessary actions, including retaining outside counsel, to seek the set-aside of the Liens through Special Action with the Cochise County Superior Court.

Budget Appropriation:

Outside Counsel Costs, Filing Fees and other related expenses for prosecution.

RESOLUTION 2024-016

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO TAKE SUCH ACTIONS, INCLUDING THE RETENTION OF OUTSIDE COUNSEL, TO SET ASIDE THE LIENS RECORDED AGAINST THE CITY OF SIERRA VISTA BY EDWIN GROOVER; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, On January 8, 2024, Edwin Groover recorded two liens against the City of Sierra Vista, Arizona; and

WHEREAS, under Arizona law, the liens are groundless and invalid; and

WHEREAS, absent a voluntary retraction of the liens by Mr. Groover, the City's recourse is to file a special action against Mr. Groover pursuant to A.R.S. 33-420; and

WHEREAS, before the City Attorney may pursue legal action, the Mayor and Council must direct him to do so; and

WHEREAS, it is in the best interest of the citizens of Sierra Vista that such legal action be taken.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy, which directs the City Attorney to initiate litigation by specific action of the Mayor and City Council be, and hereby is reaffirmed.

SECTION 2

That the City Attorney is hereby authorized and directed to take such action(s) as may be required, including retaining outside counsel, to set aside those certain liens recorded by Edwin Groover against the CITY OF SIERRA VISTA as Document Nos. 2024-00312 and 2024-00311.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 28TH DAY OF MARCH 2024.

CLEA MCCA, II
Mayor

ATTEST:

JILL ADAMS
City Clerk

APPROVED AS TO FORM:

NATHAN J. WILLIAMS
City Attorney

PREPARED BY:
Nathan J. Williams, City Attorney