

October 5, 2023

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 2023-076, Authorization to Take Legal
Action Against Jetty Ware

Recommendation:

The City manager recommends approval.

Background:

In May, 2019, the City performed property maintenance/abatement/demolition activities on the property located at 11 Whitton Dr., Sierra Vista, Arizona (the "Property"), which is owned by Jetty Ware ("Ware"). The abatement activities were performed pursuant to Sierra Vista City Code at a total cost of \$15,088.80, which constituted a lien against the property in favor of the City. At present, the total balance owed the City, including interest and other penalties, is \$22,159.87.

Pursuant to Sierra Vista City Code §150.49(g), Ware is required to pay the lien in equal annual installments until paid in full, but no later than ten years from the date of the lien. If the lien is not paid as provided in Sierra Vista City Code §150.49(g), the City may pursue judicial foreclosure of the lien pursuant to Sierra Vista City Code §150.49(d). To date, Ware has failed or refused to pay any amounts due the City under the abatement lien.

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 action to foreclose its abatement lien against Morales pursuant to Sierra Vista City Code §150.49(d).

Budget Appropriation:

Filing Fees and other related expenses for prosecution.

RESOLUTION 2023-076

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO FILE SUCH ACTIONS IN THE COURT (S) OF COMPETENT JURISDICTION ON BEHALF OF THE CITY OF SIERRA VISTA TO JUDICIALLY FORECLOSE ITS ABATEMENT LIEN AGAINST JETTY WARE; 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 June 10, 2019, the City recorded an abatement lien against Jetty Ware arising out of abatement activities performed by the City on the property located at 11 Whitton Dr., Sierra Vista, Arizona; and

WHEREAS, under Arizona law and Sierra Vista City Code, Ms. Ware is obligated to repay the lien in annual installments; and

WHEREAS, Ms. Ware has failed to repay the lien; 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 to enforce the City of Sierra Vista's rights and obligations under those certain Abatement Liens recorded against JETTY WARE on June 10, 2019 as Document No. 2019-10928.

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 12TH DAY OF OCTOBER 2023.

Clea McCaa, II
Mayor

ATTEST:

JILL ADAMS
City Clerk

APPROVED AS TO FORM:

NATHAN J. WILLIAMS
City Attorney

PREPARED BY:
Nathan J. Williams, City Attorney