

RESOLUTION NO. CC-2021-17

A RESOLUTION OF THE STILLWATER CITY COUNCIL DECLARING THE STRUCTURE LOCATED AT 3314 EAST 4TH AVENUE DILAPIDATED AND ABANDONED, AND A PUBLIC NUISANCE DETRIMENTAL TO THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC AND THE COMMUNITY, AND ORDERING THE DILAPIDATED STRUCTURE TO BE TORN DOWN AND REMOVED PURSUANT TO 11 O.S. §22-112

WHEREAS, 11 O.S. §22-112 addresses condemnation of dilapidated buildings, notice requirements, removal of dilapidated structures, and filing of liens; and

WHEREAS, pursuant to the provisions of 11 O.S. §22-112(A)(1), notice was given to Ricky Lynn Cole, record property owner (the “Property Owner”) of 3314 East 4th Avenue, Stillwater, Oklahoma 74074 (the “Subject Property”), as shown by the current year’s tax rolls in the Office of the Payne County Treasurer, of a Public Hearing to be held by the Stillwater City Council (the “Council”) on February 24, 2020, at 5:30 p.m. regarding a dilapidated residential building (the “Dilapidated Structure”); and

WHEREAS, the Notice of Public Hearing (the “Notice”) regarding the Dilapidated Structure was set by Certified Mail to the Property Owner on February 3, 2020; and

WHEREAS, on February 24, 2020, the Council conducted the Public Hearing; and

WHEREAS, at the Public Hearing, the Property Owner requested additional time to repair the Dilapidated Structure; and

WHEREAS, on May 15, 2020, the Property Owner entered into a Letter Agreement with the City wherein he agreed to:

1. Obtain a permit for the City for repair and restoration of the Dilapidated Structure in compliance with all City Codes and Ordinances;
2. Submit a construction schedule to the City Inspector by June 15, 2020;
3. Undertake or cause to be undertaken repair and remediation of the Dilapidated Structure in compliance with all City Codes and Ordinances; and
4. Complete all construction activities and obtain a Certificate of Occupancy within six (6) months of the effective date of the Letter Agreement; and

WHEREAS, the Property Owner did not substantially comply with the provisions of the Letter Agreement as no construction schedule was submitted, repair and remediation of the Structure is not complete, and no Certificate of Occupancy has been issued; and

WHEREAS, on December 14, 2020, the City Council considered this matter and indicated that a final extension of no more than four (4) months would be given; and

WHEREAS, to date, although the Property Owner has a permit, no substantial work has been completed; and

WHEREAS, pursuant to the provisions of 11 O.S. §22-112(A)(1), and due to the Property Owner’s failure to comply with the terms of the Letter Agreement and the Council’s directives of December 14, 2020, and due to the continuing condition of the Dilapidated Structure, notice was given to the record property owner of 3314 East 4th Avenue, Stillwater, Oklahoma 74074, as shown by the current year’s tax rolls in the Office of the Payne County Treasurer, of a Public Hearing to be held by the Stillwater City Council on June 7, 2021, at 5:30 p.m. regarding the Dilapidated Structure; and

WHEREAS, there are no record mortgage holders as verified by Office of the Payne County Clerk; and

WHEREAS, in order to provide maximum notice and transparency, a sign was posted on the Subject Property advising the Property Owner and others of the Public Hearing scheduled for June 7, 2021; and

WHEREAS, the sign was posted on the Subject Property and remains in place as of the date of this Public Hearing; and

WHEREAS, due to the provision by mail and posting of the notice, no publication was effectuated by the City of Stillwater; and

WHEREAS, 11 O.S. §22-122(C) defines dilapidated building as follows:

- a. a structure which, through neglect or injury, lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public;
- b. a structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public;
- c. a structure which is determined by the municipal governing body to be an unsecured building as defined by 11 O.S. §22-112.1 more than three times within any 12-month period;
- d. a structure which has been boarded and secured for more than 18 months;
- e. a structure declared by the municipal governing body to constitute a public nuisance.

WHEREAS, as of the final date of inspection prior to preparation of the Notice, the Dilapidated Structure had roof peak deformities presumably caused by fire damage to the interior framework, peeling paint from siding, unprotected and deteriorating wood, untreated wood used to close the garage door, peeling and detached siding due to a lack of paint and maintenance, insulation material covering framework on the north end of the structure only, numerous holes in walls where vent covers were installed, extensive rot on windows and doors, broken windows which are open to the weather and habitation by birds and vermin, rotting eaves and joints causing the slow collapse of the roof, collapsing roof due to rot in the joists, numerous wasps flying in and out of holes in the structure; and

WHEREAS, documentation of the condition of the Structure and the state of the Subject Property when initially declared a nuisance is contained in the Written Official Record attached hereto as Exhibit "A;" and

WHEREAS, documentation of the present condition of the Structure and the state of the Subject Property is contained in the Supplement to the Written Official Record, attached hereto as Exhibit "B;" and

WHEREAS, the Structure Condition as set forth above, demonstrates that the Dilapidated Structure, through neglect or injury, is devoid of the necessary repairs and is in a state of decay and partial ruin to such an extent that the Dilapidated Structure is a hazard to the health, safety, and welfare of the general public; and

WHEREAS, the Structure Condition, as set forth above, demonstrates that the Dilapidated Structure is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public; and

WHEREAS, the Structure Condition as set forth above, as well as the attached Written Official Record, as supplemented, and the prior action of the Council giving considerable time for remediation, demonstrate that the Dilapidated Structure and the Subject Property should be declared a public nuisance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA, THAT a Public Hearing regarding the Subject Property was held on this 7th day of June, 2021.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Written Official Record, as supplemented, accompanying this Resolution is hereby formally accepted and adopted herein.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT based upon the Written Official Record, as supplemented, and provided to the City Council and the Property Owner and adopted herein, as well as the information presented at the Public Hearing, the City Council hereby finds that the Dilapidated Structure on the Subject Property is dilapidated and has become detrimental to the health, safety, and welfare of the general public and the community.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT based upon the Written Official Record, as supplemented, and provided to the City Council and the Property Owner and adopted herein, as well as the information presented at the Public Hearing, the City Council hereby finds that the Structure on the Subject Property is dilapidated and creates a fire hazard which is dangerous to other properties.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT based upon the Written Official Record, as supplemented, and provided to the City Council and the Property Owner and adopted herein, as well as the information presented at the Public Hearing, the City Council hereby declares the Dilapidated Structure and the Subject Property a Public Nuisance.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT based upon the Written Official Record, as supplemented, and provided to the City Council and the Property Owner and adopted herein, as well as the information presented at the Public Hearing, the City Council hereby finds that the Dilapidated Structure on the Subject Property constitutes a detriment and a hazard and that the property would be benefited by the removal of the Dilapidated Structure.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT based upon the Written Official Record, as supplemented, and presented to the City Council and approved herein, as well as the information presented at the Public Hearing, the City Council hereby orders the Dilapidated Structure is to be torn down and removed.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Property Owner has ninety (90) days from the effective date of this Resolution to have the Dilapidated Structure torn down and removed and that due to the length of time the Subject Property and the Dilapidated Structure have created a nuisance and affected the general health, safety, and welfare of the community, no further extensions will be given.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT if the Property Owner does not have the Dilapidated Structure torn down and removed within ninety (90) days from the effective date of this Resolution, the City Manager of the City of Stillwater is authorized to cause the Dilapidated Structure to be torn down and removed.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Stillwater City Clerk is directed to immediately file a notice of dilapidation with the Payne County Clerk describing the property, this Resolution containing the findings of the City Council, and stating that the City of Stillwater claims a lien on the Subject Property should the Property Owner fail to have the Dilapidated Structure torn down and removed.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT employees of the City of Stillwater and its agents are expressly authorized to enter the Subject Property for the performance of their necessary duties and governmental functions, including inspections authorized by law and consent and to effectuate the directives of the City Manager if the Dilapidated Structure is not torn down and removed within ninety (90) days of the date of this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT all actions taken and authorized herein are appropriate and necessary for the health, safety, and welfare of the residents of the City of Stillwater, Oklahoma.

ADOPTED by the City Council of the City of Stillwater, Oklahoma, on this 7th day of June, 2021, after full compliance with the Oklahoma Open Meeting Act.

CITY OF STILLWATER, OKLAHOMA
A Municipal Corporation

WILLIAM H. JOYCE, MAYOR

ATTEST:

TERESA KADAVY, CITY CLERK

Approved as to form and legality:

JOHN E. DORMAN, CITY ATTORNEY