



City of Olathe

Legislation Details (With Text)

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Title: Consideration of Resolution No. 24-1033 fixing a date and time for a public hearing regarding the structure at 413 S. Cherry Street.

Sponsors: Jamie Robichaud, Ryan Arter

Indexes:

Code sections:

Attachments: 1. A. Statement of Unsafe and Dangerous Structure 413 S Cherry St, 2. B. Resolution 24-1033 unsafe structure hearing 413 S Cherry St

Date	Ver.	Action By	Action	Result
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FOCUS AREA: Economy; Legal

STAFF CONTACT: Jamie Robichaud; Ryan Arter; Chris Grunewald

SUBJECT: A resolution fixing a time for a Public Hearing for the owner, his agent, any lienholders of record, and any occupants of the structure located at 413 S. Cherry Street, Olathe, Johnson County, Kansas to appear and show cause why such structure should not be condemned as unsafe or dangerous and ordered repaired or demolished.

TITLE:

Consideration of Resolution No. 24-1033 fixing a date and time for a public hearing regarding the structure at 413 S. Cherry Street.

SUMMARY:

The home at 413 S. Cherry Street was significantly damaged by a fire in 2012 and has been unoccupied since then. The structure has several holes in the roof, has shifted off of its foundation, and is showing signs of collapsing. It presents an imminent danger to the neighborhood and violates several provisions the Olathe Municipal Code. The owner refuses to abate the danger. The Chief Building Official prepared findings based on a structural engineer’s interior inspection of the structure (**Attachment A**). Staff is requesting that the City Council adopt a resolution setting a public hearing regarding the imminent danger posed by this dangerous structure (**Attachment B**).

Background

Since the fire in 2012, the property has not had electric, gas, or water utility services. No electric power can be provided to the property until significant repairs are made to the electrical service and wiring throughout the structure.

In early 2023, the City cited the owner, Loren Brownlee Jr., for violations of the Olathe Municipal Code regarding property maintenance (Chapter 15.22) and creating a health and safety nuisance

(Chapter 6.06). These citations resulted in two separate Codes Docket cases in Olathe Municipal Court. Case No. 23V102705 cited the owner for inoperable vehicles and unsanitary debris in the yard. Case No. 23V102706 cited the owner for a small, dilapidated detached one-car garage which was full of junk, attracting pests, and in danger of collapsing. The owner refused to appear and in Municipal Court and failed to make any house repairs, remove or repair the garage, or clean up the yard. The Municipal Court set both cases for trial on March 6, 2023, and the owner failed to appear. The Municipal Court issued bench warrants for the owner.

Based on the continued health and safety violations, staff pursued the civil abatement process to remove the exterior hazards from the property. In mid-March 2023, staff provided the proper legal notice under Chapter 6 of the Olathe Municipal Code that the owner's failure to act within 10 days would authorize the City to complete the abatement and assess the City's abatement costs the property. The owner failed to remove the vehicles and debris and failed to repair or remove the detached garage to make it safe. On March 27, 2023, City staff met the owner at the property and explained that the City was removing the junk and debris and demolishing the garage, and the owner acknowledged and agreed to cooperate with the City's abatement. The City's contractors removed the junk and debris and demolished the garage, and those costs (approximately \$6,000) have now been assessed to the property as a portion of the real estate taxes assessed and collected by Johnson County.

The Codes Docket cases were continued until June 2023. On June 15, the owner appeared in Municipal Court. In Case No. 23V102706 (dilapidated garage and exterior junk), the City dismissed the case because the City had already abated the violations by demolishing the garage and removing all of the junk and inoperable vehicles. In Case No. 23V102705 (house violations), the owner pled guilty and was assessed a fine of \$250 which was suspended for 12 months provided the owner came into compliance and had no further violations. The owner has continued to fail to make any repairs. The City filed a motion to impose the fine, which the Municipal Court granted, and the owner has never paid the fine.

Based on the concern over the structural stability of the house, in June 2023, City staff requested that the owner grant the City interior access. The owner refused, so staff filed a request with the Johnson County District Court for an administrative search warrant to gain entry. The District Court granted the administrative warrant on August 16, 2023, and staff entered the property on August 17, 2023. Unfortunately, the interior was so full of material, including trash and debris, that a full structural examination was impossible.

In September 2023, staff prepared a new Violation Notice for a multitude of property maintenance violations (Chapter 15.22) based on the limited interior inspection. These violations, which remain uncorrected as of today, include foundation cracking, electrical hazards, and unsanitary conditions in the property which attract pests.

Staff returned to the Johnson County District Court to request a second administrative search warrant for the structure's interior, which was granted on May 30, 2024. To ensure a successful inspection and structural evaluation, City staff contracted in advance for a structural engineer to conduct the inspection and prepare a written structural evaluation and for a junk removal contractor to temporarily remove items from the house as needed so that the engineer could gain sufficient access to evaluate the structure. The second warrant was executed on site on May 31, 2024, and the engineer successfully completed the interior and structural inspection.

Current Conditions

The structural engineer's report (**Attachment A**) made the following findings:

- The front entrance is boarded up and many windows have been painted over.
- The foundation mortar joints have cracking which indicates foundation movement.
- A portion of the floor is bowing so significantly that it appears that some parts of the house framing are now resting on the ground instead of the foundation.
- In the dining room, both the ceiling above the northwest corner and the floor in the southeast corner are caving downward and are at risk of collapse.
- The roof structure along the south wall of the house is significantly decayed and will continue to deteriorate due to continued exposure.

The engineer concluded that the house is structurally unsafe because it is partially collapsed and portions lack necessary support of the ground. Based on the report, the Chief Building Official has determined that the building is unsafe and dangerous.

This agenda item is the first step in the process authorized by K.S.A. 12-1750 *et seq.* for the City Council to order demolition or repair, and, if needed eventually, for the City to demolish or repair and assess the costs to the property.

Attachment B is a resolution setting a public hearing for September 3, 2024, to allow the owner and any lienholders to show cause why the City should not declare the structure unsafe and order the owner to demolish or repair the structure within a reasonable time. The owner's failure to act by the deadline set by the governing body would allow the City to repair or raze the structure and to assess the costs against the property.

Staff recommends that the City Council set the Public Hearing and direct staff to provide notice as required by law.

FINANCIAL IMPACT:

None

ACTION NEEDED:

Approve Resolution No. 24-1033 fixing a date and time for a public hearing regarding the structure at 413 S. Cherry Street.

ATTACHMENT(S):

- A. Statement of Unsafe and Dangerous Structure 413 S Cherry St
- B. Resolution 24-1033 unsafe structure hearing 413 S Cherry St