

# MISSION HILLS CITY COUNCIL AGENDA

## Special Meeting of the Council

### January 4, 2019

✓ CALL TO ORDER COUNCIL MEETING – 12 P.M.

#### 1 OLD BUSINESS

- A. Resolution 2019 – A: A resolution establishing a hearing date to determine if the structure located at 5700 State Line Road, Mission Hills, Kansas, should be condemned and ordered repaired or demolished pursuant to K.S.A. 12-1750 *Et seq.* and Section 5-301 *Et seq.* of the Code of Ordinances of the City of Mission Hills, Kansas

*\*The following item(s) of business have been previously discussed by the Council in sufficient detail, or are of such a routine and recurring nature that further discussion is usually not anticipated before approval. If such is the case, the entire Consent Agenda can be approved with a single motion and vote. If, however, any member of the governing body or any member of the audience wishes further discussion on any item, the Council may remove the item from the Consent Agenda and place it for discussion under New Business.*

## 1. OLD BUSINESS

### **Resolution 2019 – A: 5700 State Line Road – Unsafe and Dangerous Structure; Setting Hearing Date**

#### **Background**

The house at 5700 State Line Road has been in decline for several years. The City Building Inspector and Assistant City Administrator have visited the home on multiple occasions to document the condition of the structure. Most recently, the Building Inspector, Steve Crull, visited the property on Monday, December 3 and determined that the house is an unsafe and dangerous structure. The City has an ordinance that addresses structures in this condition. Ordinance section 5-302 outlines nine minimum standards that all structures in the City must meet. The house at 5700 State Line Road is in violation of all nine standards. Mr. Crull's report and photographs are attached for your reference.

#### **Update**

Following the December 10<sup>th</sup> Council meeting, staff sent the Jacobsen's a letter asking them to demolish or repair the home by January 2, 2019. Staff met with Mr. Jacobsen on Thursday, Dec. 13 to discuss the City's request for repairs or demolition by January 2, 2019. Mr. Jacobsen indicated they were planning to demo the house on March 1, 2019, as they hope to have new plans to submit for the new home they are proposing for the lot by February 1, 2019. Staff explained that we would continue to follow the formal process of declaring the structure unsafe and dangerous and Mr. Jacobsen said he understood and perhaps the timing will work out well. Staff explained the Council's special meeting on January 4, 2019, and next steps.

#### **Next Steps**

The City Attorney's draft resolution and an outline of the unsafe and dangerous structure process are attached for your reference. On today's agenda for the Council's consideration is a resolution that would set a hearing date for determining whether the structure at 5700 State Line Road will be declared unsafe and dangerous and whether the cost of the necessary repairs is greater than 50% of the fair market value. By ordinance, before the hearing can be scheduled the resolution must be published for two consecutive weeks and the earliest a hearing may be scheduled is 30 days after the second publication. The first possible hearing date is Friday, February 15, 2019. The Council may schedule the hearing for this date, a different date or wait until the next Council meeting on Monday, March 4, 2019. At the hearing, the Council will hear evidence from the owners and the City and make a determination regarding repair of the property versus demolition.

Confidential Attorney Client Privilege

## Memorandum

**To:** City Council  
**From:** Anna M. Krstulic  
**Re:** Procedures for Unsafe/Dangerous Structures  
**Date:** December 10, 2018

This memorandum outlines the procedures for condemning a structure as unsafe and dangerous. The City has the authority to condemn such structures under K.S.A. 12-1750 *et seq.* and Section 5-301 *et seq.* of the Code of Ordinances of the City of Mission Hills, Kansas (the "Code").

**1. Report (K.S.A. 12-1752; Code Section 5-303.A)**

The City Administrator, or his or her designee, must file with the City Council a statement in writing that a structure is being maintained in violation of the minimum standards established by Code Section 5-302, describing the same and where located.

**2. Resolution Setting Hearing (K.S.A. 12-1752; Code Section 5-303.A)**

The City Council shall, by resolution, fix a time and place at which the owner, owner's agent, any lienholders of record and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. The resolution must be published once each week for 2 consecutive weeks on the same day of each week, and at least 30 days must elapse between the last publication and the hearing date. A copy of the resolution must be mailed by certified mail within 3 days after its first publication to each owner, agent, lienholder and occupant at the last known address and shall be marked "Deliver to Addressee Only."

**3. Hearing Requirements (K.S.A. 12-1753, 12-754; Code Sections 5-303.B, 5-308)**

At the hearing, the City Council shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in the structure as well as evidence submitted by the City Administrator filing the statement.

At the conclusion of the hearing, the City Council must make findings by resolution. If the City Council finds that there is a violation of the minimum standards set forth in Code Section 5-302, the resolution shall either:

- (a) require the owner of the structure to repair, alter or improve the structure, if the repair, alteration, or improvement can be made at a cost no more than 50% of the fair market value of the structure as determined by the City Council; or
- (b) require the removal or demolition of the structure if the repair, alteration, or improvement of the structure cannot be made for under 50% of the fair market value of the structure.

If the City Council finds that the structure is unsafe or dangerous, the resolution shall direct the structure to be repaired or removed/demolished and the premises made safe and secure. If demolition is ordered, the owner must fill any basement or other excavation on the premises and take any other action necessary to leave the premises in a safe condition.

The resolution shall be published once in the official City paper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which to commence compliance with its requirements and a statement that if the owner fails to commence the required actions within the time stated or fails to diligently prosecute the same until the work is completed, the City Council will cause the structure to be repaired, altered, improved, removed, demolished or rehabilitated.

#### **4. Enforcement (Code Sections 5-304, 5-306)**

The City Administrator is authorized to exercise such powers as may be reasonably necessary, including the power to enter a structure and the property that is the subject of these proceedings. In the event that entry is denied or resisted, the City Administrator may seek an order from the district court to obtain entry. The City Administrator is specifically authorized to utilize the services of other City employees and to employ independent contractors to provide information or other services.

The City Administrator shall determine whether an owner has complied with the resolution of the City Council issued after the hearing. If the owner fails to comply within the time specified, the City Administrator may direct the City Prosecutor to initiate a charge in the Municipal Court against the owner (nuisance provisions).

In addition, the City Administrator must present the resolution and the respects in which the owner has failed to comply to the City Council at its next meeting. The City Council may:

- (a) direct the City Prosecutor to initiate a charge in the Municipal Court against the owner;
- (b) direct the City Administrator to carry out the resolution by causing the structure to be repaired, altered, improved, removed, demolished, or rehabilitated; or
- (c) any combination of such actions which it determines appropriate.

**5. Repair or Removal by City (K.S.A. 12-1755(a); Code Section 5-305.B)**

If the owner of the structure has failed to commence the repair or removal within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the City Administrator may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract.

The City Administrator must keep an account of the cost of such work and may sell the salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the premises safe and secure. All moneys in excess of that necessary to pay such costs and the cost of publications of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner of the premises upon which the structure is located.

**6. Assessment and Collection of Costs (K.S.A. 12-1755(b)-(c); Code Section 5-305.B-C)**

The City Administrator must give notice (by restricted mail) to the owner of the structure of the total costs incurred by the City in removing the structure and making the premises safe and secure and the cost of providing notice. Such notice shall also state that payment of such costs is due and payable within 30 days following receipt of such notice.

If the costs are not paid within the 30-day period and if there is no salvageable material, the balance shall be collected:

- (a) in the manner provided by K.S.A. 12-1,115 (action in district court for debt); or
- (b) shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the City Clerk at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the County against such lot or parcel of land.

The City may pursue collection by both an action in district court for debt and levying a special assessment, but only until the full cost and any applicable interest has been paid in full. Whenever any structure is removed from any premises under the foregoing provisions, the City Clerk must certify to the County Appraiser that the structure has been removed.

If there is no salvageable material, or if the moneys received from the sale of salvage are insufficient to pay the costs of the work and the cost of providing notice, such costs may be financed out of the general fund or by the issuance of no-fund warrants until the costs are paid. Whenever no-fund warrants are issued, the City Council shall make a tax levy at the first tax levying period for the purpose of paying the warrant and the interest thereon. All moneys received from special assessments levied or from any action in district court for debt, when and if paid, must be placed in the City's general fund.

Please let me know if you have any questions or need additional information.

AMK:SLS

**RESOLUTION NO. 2019-A**

**A RESOLUTION ESTABLISHING A HEARING DATE TO DETERMINE IF THE STRUCTURE LOCATED AT 5700 STATE LINE ROAD, MISSION HILLS, KANSAS, SHOULD BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A 12-1750 ET SEQ. AND SECTION 5-301 ET SEQ. OF THE CODE OF ORDINANCES OF THE CITY OF MISSION HILLS, KANSAS**

**WHEREAS**, pursuant to K.S.A. 12-1752 and Section 5-303.A of the Code of Ordinances of the City of Mission Hills, Kansas (the "Code"), the City Administrator has filed with the City Council a statement in writing that the residential structure located at 5700 State Line Road, Mission Hills, Kansas (the "Property") is unsafe and dangerous;

**WHEREAS**, the Johnson County Parcel ID of the Property is LP54000006 0004 and the legal description of the Property (as determined by the Johnson County Appraiser) is RESURVEY OF PART OF BLOCK 6 OF MISSION HILLS LT 4 EX S 20' & EX BG NW CR S ALG WLY/L 30' & 54.4' N TO POB MHC 115A;

**WHEREAS**, the Property is currently vacant and unoccupied;

**WHEREAS**, pursuant to K.S.A. 12-1752 and Section 5-303.A of the Code, the City Council has determined that it is appropriate to set the matter for hearing so that the owner, owner's agent, any lienholders of record and any occupant of the Property may appear and show cause why the structure on the Property should not be condemned and ordered repaired or demolished in the event the City Council finds the structure to be unsafe or dangerous.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSION HILLS, KANSAS:**

1. Pursuant to K.S.A. 12-1752 and Section 5-303.A of the Code, the City Council will conduct a hearing on February 15, 2019 in Council chambers at Mission Hills City Hall, 6300 State Line Road, Mission Hills, Kansas, beginning at [redacted] [a.m./p.m.], at which the owner, the owner's agent, any lienholders of record and any occupant of the Property may appear and show cause why the structure on the Property should not be condemned and ordered repaired or demolished as an unsafe and dangerous structure.

2. Pursuant to K.S.A. 12-1752 and Section 5-303.A of the Code, this Resolution shall be published in *The Legal Record* once each week for two (2) consecutive weeks on the same day of each week, and at least thirty (30) days shall elapse between the last publication and the hearing date. A copy of this Resolution shall be mailed by certified mail within three (3) days after its first publication in *The Legal Record* to each owner, agent, lienholder and occupant of the Property at the last known address and shall be marked "Deliver to Addressee Only."

3. The Mayor, City Administrator, City Clerk, and other officials and employees of the City, including counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF MISSION HILLS,  
KANSAS THIS 4<sup>TH</sup> DAY OF JANUARY, 2019, AND APPROVED BY THE MAYOR.**

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David W. Dickey, Mayor

ATTEST:

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Meghan Woolbright, Deputy City Clerk

APPROVED AS TO FORM:

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Anna M. Krstulic, City Attorney