COUNCIL ITEM 11K
DATE 1/9/12

RESOLUTION 12-R11

A RESOLUTION DECLARING A PUBLIC NUISANCE AT 1082 SW SPATARO AVENUE, PORT ST. LUCIE, FLORIDA AFTER A SHOW CAUSE HEARING; REQUIRING ABATEMENT OF THE NUISANCE WITHIN A CERTAIN TIME; AUTHORIZING ABATEMENT BY CITY FORCES; PROVIDING FOR THE RECOVERY OF ABATEMENT COSTS AS A SPECIAL ASSESSMENT AGAINST THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on November 21, 2011, pursuant to Resolution 11–R83 the City Council of the City of Port St. Lucie identified and declared a threat to the health, safety, and general welfare of the community due to conditions located at 1082 SW Spataro Avenue, Port St. Lucie, Florida, said property being more specifically described as:

> Lot 3, Block 1937, St. Lucie Section 19, according to the Plat thereof as recorded in Plat Book 13, Page 19, 19A to 19K of the Public Records of St. Lucie County, Florida; and

WHEREAS, the apparent title holders/owners of such property Wells Fargo Bank, NA, was served with notice of Resolution 11-R83 and provided an order to show cause and hearing date pursuant to Port St. Lucie Code Section 40.17(3); and

WHEREAS, a show cause hearing was held on January 9, 2012 at which time the property owners and mortgagee were given an opportunity to present all evidence and argument as to why such condition(s) should not be declared a public nuisance; and

WHEREAS, on January 9, 2012, the property owner(s) and/or mortgagee failed to show cause why the condition should not be designated a public nuisance; and

WHEREAS, pursuant to Chapter 40, Port St. Lucie City Code, the City Council shall set a reasonable time for the condition to be abated; and

WHEREAS, should the property owner(s) or mortgagee fail to abate the nuisance within the time set forth herein, the City, without further action of Council, is hereby authorized to abate the nuisance with City forces or an independent contractor and record the costs of abatement as a special assessment against the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, THAT:

Section 1. The conditions at issue violate Port St. Lucie City Code Section(s) 41.08(d), 41.10(b), 41.10(f), 158.211, and are more fully described as damaged wood fence, damaged roof with blue tarp, rotten wood siding and op[en storage

Section 2. A reasonable time to abate said nuisance **by fixing, repairing, and/or removing the above described issues** is not later than _____. When or if the property owner abates the nuisance as directed herein, in order to prevent further action by the City, **it is the responsibility of the property owner or mortgagee to contact the Neighborhood Services Department (Code Enforcement) in writing and request a re-inspection of the property**. If it is found upon re-inspection that the nuisance has been abated as directed herein, no further action will be taken by the City and this matter will be dismissed.

Section 3. In the event the property owner or mortgagee has not abated the nuisance and requested a re-inspection by the date set forth herein, the City may abate the nuisance and the cost of abatement shall be charged against the subject property described herein. Further, pursuant to Chapter 40, Port St. Lucie City Code and all other applicable law, such costs shall constitute a special assessment against the real property. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior to mortgages and all other liens, irrespective of the date of recording. A failure to pay said assessment, even upon homestead property, may be collected pursuant to any manner specified by law and may result in a loss of title to the property.

Section 4. In the event any specific provision of this Resolution is found invalid, it shall not affect the validity of the remaining provisions.

Section 5. This Resolution becomes effective immediately upon its adoption.

RESOLUTION 12-R11

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 9th day of January, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

By:_____
JoAnn M. Faiella, Mayor

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:_____
Roger G. Orr, City Attorney

EXHIBIT C

ORDER TO SHOW CAUSE
CITY OF PORT ST. LUCIE NUISANCE ABATEMENT

YOU ARE HEREBY ORDERED TO SHOW CAUSE:

A condition exists on certain property as set forth below, which constitutes a nuisance pursuant to Chapter 40, Port St. Lucie City Code and constitutes a threat to the public health, safety, and general welfare.

Address:

1082 SW Spataro Avenue, Port St. Lucie, FL 34953

Legal Description:

Lot 3, in Block 1937, Port St. Lucie Section 19 according to the Plat thereof, as recorded in Plat Book 13, Page 19, 19A to 19K, of the Public Records of St. Lucie County, Florida.

Pursuant to a search of the St. Lucie County Property Appraiser's records and St. Lucie County public records the property appears to be owned by: Wells Fargo Bank, N.A.

The conditions at issue violate Port St. Lucie City Code Section(s) 41.08(d), 41.10(b), 41.10(f), 158.211 and are more fully described as damaged wood fence, damaged roof with blue tarp, rotten wood siding and open storage.

A hearing is set for the 9th of January, 2012, at 7:00 P.M. in the Chambers of the Port St. Lucie City Council, located at City Hall, 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida 34984. A failure to respond or appear at the hearing shall be deemed an admission of the existence of a public nuisance and may result in the abatement of the nuisance by the City. Further information concerning the hearing may be obtained by calling the Legal Department of the City of Port St. Lucie at 772-873-6525.

At said hearing, the property owner and mortgagee may present all evidence and argument to show cause why the removal or abatement of the public nuisance should not be required. If good and sufficient cause cannot be shown, the City Council may declare the property a public nuisance and shall require the removal or abatement of the public nuisance by the property owner not later than 21 days after such finding. If the property owner fails to abate the nuisance, the City may do so with City forces or by independent contractor and levy the cost of the abatement against the property as a special assessment. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior in dignity to mortgages and all other liens regardless of the date of recording. A failure to pay said lien may result in a loss of title to your property.

340-4000

THOMAS J. WHITE
REALTY
340-4000

MEMORANDUM

TO: JERRY A. BENTROTT, CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY

FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY

DATE: JANUARY 3, 2012 SB

SUBJECT: RESOLUTION TO DECLARE CERTAIN AS PUBLIC NUISANCES

Attached hereto please find proposed resolutions declaring the following properties as public nuisances. Please place these items on the January 9, 2012 City Council agenda for consideration.

- 749 NW Cardinal Drive
- 1402 SE Empire Street
- 1082 SW Spataro Avenue
- 2014 SE Triumph Road
- 514 NW Kilpatrick Avenue
- 4451 NW Alsace Avenue
- 285 NE Sagamore Terrace

Should you have any further questions or need any additional information, please contact me at 873-6332.

SB/liw
Attach.

RECEIVED
JAN 04 2012
City Manager's Office