COUNCIL ITEM 11C
DATE 5/21/12

A RESOLUTION DECLARING A PUBLIC NUISANCE AT 849 SE DAMASK 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 April 23, 2012, pursuant to Resolution 12-R41 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 849 SE Damask Avenue, Port St. Lucie, Florida, said property being more specifically described as:

> Lot 6 Block 450, St. Lucie Section 10, according to the Plat thereof as recorded in Plat Book 12, Page 49, 49A through 49G, of the Public Records of St. Lucie County, Florida; and

WHEREAS, the apparent title holder(s)/owner(s) of such property Beth Ann Fillingeri, and other interested parties, specifically The Bank of New York Mellon F/K/A The Bank of New York as Trustee for the Certificate Holders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17 were served with notice of Resolution 12-R41, 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 May 21, 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 May 21, 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(b), 41.09(a), 41.10(b), 41.08(d), 41.10(c)(2), and are more fully described as high grass and weeds, unmaintained pool, unsecure pool, exterior door in need of repair, fence in need of repair and no house numbers displayed.

Section 2. A reasonable time to abate said nuisance **by fixing/repairing the above described issues** is not later than **June 21, 2012**. 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-R54

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 21ST day of May, 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

MEMORANDUM

TO: GREGORY J. ORAVEC, CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY

FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY SB

DATE: MAY 14, 2012

SUBJECT: RESOLUTIONS TO DECLARE CERTAIN PROPERTIES AS PUBLIC NUISANCES

Attached hereto please find proposed resolutions declaring the following properties as public nuisances. These properties were presented to City Council on April 23, 2012, and pursuant to Resolution 12-R41 (attached), were identified and declared a threat to the health, safety and general welfare of the community. Please place these items on the May 21, 2012 City Council agenda for consideration.

- 313 NE Surfside Avenue
- 849 SE Damask Avenue
- 1004 SE Bywood Avenue
- 1614 SE Holiday Road
- 1707 SE Hondo Avenue
- 2165 SE Floresta Drive

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

SB/liw
Attach.

RECEIVED
MAY 15 2012
City Managers Office

RESOLUTION 12-R41

A RESOLUTION IDENTIFYING CERTAIN PROPERTY WITHIN THE CITY OF PORT ST. LUCIE A THREAT TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY PURSUANT TO CHAPTER 40 OF THE PORT ST. LUCIE CITY CODE; PROVIDING FOR A HEARING DATE TO DETERMINE WHETHER THE AFFECTED PROPERTIES SHOULD BE FOUND A PUBLIC NUISANCE; PROVIDING NOTICE TO THE OWNERS AND MORTGAGEE(S) OF THE PROPERTIES OF SAID HEARING DATE; PROVIDING AN EFFECTIVE DATE

WHEREAS, Conditions exist on certain property located within the City of Port St. Lucie located at:

- 313 NE Surfside Avenue
- 849 SE Damask Avenue
- 1004 SE Bywood Avenue
- 1614 SE Holiday Road
- 1707 SE Hondo Avenue
- 2165 SE Floresta Drive

STATE OF FLORIDA
ST. LUCIE COUNTY
CITY OF PORT ST. LUCIE
THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECORDS ON FILE IN THIS OFFICE
CITY CLERK
BY _____ DEPUTY CLERK
DATE _____
(CITY SEAL)
CORPORATE SEAL

WHEREAS, the property and conditions thereof are more specifically identified and described in Exhibits A, B, C, D, E, and F, attached hereto and incorporated herein; and

WHEREAS, the conditions violate Port St. Lucie City Code Chapter 41; and

WHEREAS, the owners and mortgagees of said properties shall be provided notice of the apparent violation(s) and shall have the opportunity to be heard as to why said properties should not be declared a public nuisance pursuant to Chapter 40, Port St. Lucie City Code; and

WHEREAS, the owners and mortgagees are hereby informed that a failure to timely respond to this notice and/or appear at the hearing as set forth herein shall be deemed an admission of the existence of a public nuisance on the property at issue and may result in abatement of the nuisance by the City; and

WHEREAS, the cost of such abatement by the City shall constitute a special assessment against said properties;

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

Section 1. Conditions exist on certain property as set forth herein, which violate Chapter 41, Port St. Lucie City Code and constitute a threat to the public health, safety, and general welfare.

Section 2. The property owners and mortgagees of record shall be notified of this proceeding by service pursuant to Port St. Lucie City Code Section 40.17(3).

Section 3. A show cause hearing shall be set upon proper service of the parties having been made 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. Further information concerning the hearing may be obtained by calling the Legal Department of the City of Port St. Lucie at 772-873-6525.

Section 4. At said hearing, the property owners and mortgagees of the property may present all evidence and argument to show cause why the removal or abatement of the violations on their property should not be required.

Section 5. If good and sufficient cause cannot be shown, the City Council upon review of each property, evidence, and argument may declare such property a public nuisance and shall require the removal or abatement of the public nuisance by the property owner and mortgagee because of the unlawful condition and detriment to the community.

Section 6. If the property owner or mortgagee 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.

Section 7. In the event this Resolution is challenged or found invalid as it may affect any individual property identified herein, it shall not affect the validity of this Resolution as to the remaining properties.

Section 8. This Resolution becomes effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this ~~14~~ 23 day of ~~May~~ APRIL, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
JoAnn M. Faiella, Mayor

ATTEST:

_____
FOR Karen A. Phillips, City Clerk

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

CITY OF PORT ST. LUCIE CORPORATE SEAL 1961 FLA

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:

849 SE Damask Avenue, Port St. Lucie, Florida 34983

Legal Description:

Lot 6, in Block 450, Port St. Lucie Section 10 according to the Plat thereof, as recorded in Plat Book 12, Page 49, 49A through 49G 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: Beth Ann Fillingeri.

The Bank of New York Mellon, as Trustee for the Certificate Holders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, may have an interest in the property as owner or mortgagee.

The conditions at issue violate Port St. Lucie City Code Section(s) 41.08(b), 41.09(a), 41.10(b), 41.08(d), 41.10(c)(2), and are more fully described as high grass and weeds, unmaintained pool, unsecure pool, exterior door in need of repair, fence in need of repair and no house numbers displayed.

A hearing is set for the 21 of May, 2012, at 2:00 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.