

## Meeting Agendas/Info

**CITY COUNCIL  
COMMUNICATION:**

**ITEM \_\_\_\_\_**

**01-379**

**OFFICE OF THE CITY MANAGER  
CITY OF DES MOINES, IOWA**

**AGENDA:**

JULY 23, 2001

**SUBJECT:**

**PUBLIC NUISANCE  
AT 401 SE 6TH ST.**

**TYPE:**

**RESOLUTION  
ORDINANCE  
RECEIVE/FILE**

**SUBMITTED BY:**

**JAMES GRANT  
COMMUNITY  
DEVELOPMENT  
DIRECTOR**

**SYNOPSIS -**

The property located at 401 SE 6th Street contains a vacant 2-story wood frame and masonry building that has suffered severe deterioration, including a failing and partially collapsed roof, interior floor and wall damage, fallen chimneys, and severely cracked and failing masonry and mortar. A vacant secondary structure on this site has a fully collapsed roof and severely damaged walls, and has suffered apparent fire damage. Each structure is damaged to a degree that, in the opinion of the Building Official, the buildings are structurally unsound and constitute a public nuisance.

**FISCAL IMPACT -**

If the property owner does not respond by abating the public nuisance, the City would demolish the structure upon Council approval. Estimated demolition costs total \$90,000. It is intended that all costs associated with this action be collected from the owner by means of a personal judgment or assessed against the property.

**RECOMMENDATION -**

**Approve the designation of 401 SE 6th Street as a public nuisance, which authorizes the Legal Department to bring legal action against the property to abate the nuisance.**

**BACKGROUND -**

The owner of this property, Ms. Lucille Mae Schoen Irwin, has been served with notice dated May 31, 2001. The notice required repair or demolition of the structures located on this property within 30 days of receipt of the notice. The notice indicated that in the event the structures were not repaired or demolished in accordance with the notice, the matter would be heard by City Council at 5:30 PM on July 23, 2001. A response to this notice was received on June 5, 2001,

contesting the determination of the Building Official, and indicating a desire to present evidence in opposition to the declaration of public nuisance. A copy of this correspondence is attached to the fact sheet.

The United States Environmental Protection Agency (EPA) holds a lien against this property as a result of a Superfund cleanup action executed in the early 1990's. This cleanup was executed following chemical contamination that occurred while Irwin Chemical Corp. occupied this facility. EPA was notified of the determination of the Building Official in a courtesy notice dated May 31, 2001. The notice indicated that this matter would be heard by City Council at 5:30 PM on July 23, 2001 if the structure was not repaired or demolished in accordance with the notice. The EPA has not responded to this notice.

On June 28, 2001, a proposal was presented to Mayor Preston Daniels and the City Council on behalf of Ms. Irwin. The proposal reiterates the opposition to determination of public nuisance, and proposes that Ms. Irwin donate the property to the City of Des Moines by quitclaim deed as a charitable contribution. The proposal indicates that Ms. Irwin will seek and obtain release of the EPA lien prior to conveyance, and proposes that the city release Ms. Irwin from enforcement actions. The proposal also requests that Ms. Irwin not be held liable for unpaid and future real estate taxes. The proposal indicates a tax assessment against the property is being contested with Polk County. Ms. Irwin maintains that there are no unpaid or delinquent real estate taxes assessed against the property.

The proposal indicates the rationale for this donation includes the acquisition of this site for the future Martin Luther King Jr. Parkway right-of-way, the value of the property not needed for the right of way, and redevelopment of the area.

A copy of the June 28, 2001 proposal is attached to the fact sheet.

An inspection of this property conducted July 17, 2001 found that no improvements or repairs have been made to either structure, and they remain in poor and dangerous condition.

Attached to the fact sheet are copies of the May 31, 2001 notices; a property condition report prepared by the Permit and Development Center; site plan; photographs and copies of the above referenced correspondence.

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