

RESOLUTION NUMBER 91120-0110

A RESOLUTION AUTHORIZING THE BUILDING OFFICIAL TO
PROCEED WITH SPECIFIED WORK ON THE PREMISES LOCATED
AT 103 West 11th Street. IN THE CITY OF MUSCATINE, IOWA

WHEREAS, The Building Official has caused all (known) interested parties to be advised that the building located at 103 West 11th Street is subject to be abated under a notice to "ABATE A NUISANCE" from the Building Official of the City of Muscatine, Iowa, a copy of which notice is attached hereto, and incorporated by reference; and

WHEREAS, an oral report by the Building Official was submitted to this Council on January 21, 2010, and an updated report submitted to the City Council, a copy of which is attached hereto and made a part hereof, indicating that the said owner (s) (has) (have) failed, neglected, or refused to comply with said Notice; and

WHEREAS, it would be in the best interest of the health and well being of the citizens of Muscatine, Iowa, if this Council were to order the Building Official to "Abate a Nuisance" by demolition as set out in said Notice,

NOW, THEREFORE, be it resolved by the City Council of the City of Muscatine, Iowa, as follows:

1. The Building Official is ordered to proceed with the demolition of this structure and the clean-up necessary to Abate a Nuisance as specified in said Notice.
2. The Building Official may contract for the performance of said work, the cost of which shall not exceed \$13,000.00, and shall upon completion of said work, transmit a statement of cost to this Council which shall in turn certify the same to the County for placement on the tax roles in the manner prescribed by State Code.

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF January, 2010.



Greg Mandsager

Greg Mandsager, City Clerk

Richard W. O'Brien

Richard O'Brien, Mayor

(SEAL)

103 West 11th Street
Muscatine, Iowa 52761

House Fire / Demolition

August 10, 2009 – Fire resulting in total loss

September 04, 2009 – Responded to complaint reference structure being worked on with no permit. Spoke w/ subjects on scene, hired to do remodel, advised that work must stop and permit obtained prior to beginning again. Found at this time that house was apparently sold to John Timm by James and Grace King.

September 05, 2009 – John Timm was in office to obtain proper permit and was advised that this property did not meet current city code requirements as far as lot size and set backs. He was advised by Steve Boka, Planning, Zoning and Building Safety Department Director that he would need to file for a variance and present his request to the Zoning Board of Adjustment.

October 06, 2009 – Zoning Board of Adjustment heard Mr. Timm's request and request was denied to reconstruct this house. Minutes from this meeting included in case file.

November 12, 2009 – After waiting for 30 days, plus, to allow Mr. Timm to file an appeal with District Court regarding the board's decision and not hearing anything from anyone regarding this issue, the property was checked for any activity. None was noted at this time and it appeared as if all remaining construction materials and a vehicle that had been on site were removed.

November 12, 2009 – Placed a phone call to Trissel, Graham and Toole, insurance company listed on fire report to check if reserve required by State Code had been held back in case of demolition. Had not received any notice by this time. Advised by Trissel, Graham and Toole that I would need to speak with Pekin Insurance.

Spoke with Pekin Insurance who then advised that they were holding a reserve for this related incident and that they would send a letter to this effect.

November 13, 2009 – Letter received from Pekin Insurance reference the reserve being held on this property however; the letter was not complete in its preparation so another call was placed to Pekin to clear up the omissions. After advising of several mistakes noted, they advised they would send a new letter.

November 14, 2009 – Second letter received from Pekin Insurance reference the reserve being held related to this fire. (Both letters are also included in case file)

November 20, 2009 – After checking the property several times and receiving no other phone calls or correspondence regarding this property a Notice to Abate a nuisance was sent to James and Grace King who are still currently listed as the legal deed holders.

December 01, 2009 – Abatement Notice time expired with no contact to this office nor any activity around this property.

December 07, 2009 – Spoke with Steve Boka and e-mail sent to City Attorney Harvey Allbee Jr. reference proceeding with request from City Council for demolition of 103 West 11th Street Muscatine, Iowa. Tentative date for request, January 07, 2010.

December 17, 2009 – After receiving a complaint regarding the noise of water running in this property, contact was made with Muscatine Power and Water. I then met 2 service techs at this location and found the building to be unsecured. We made entry for the purpose of securing the water and found that the water pipes had already froze and broken. Water was penetrating the entire basement area. Water was shut off by Muscatine Power and Water and the meter disconnected.

December 24, 2009 – Read in Legal notices in the Journal that James and Grace King had deeded 103 West 11th to John Timm. This was recorded on December 14, 2009.

December 28, 2009 – After the deed / property ownership change was noted and after the holidays, I notified city attorney Harvey Allbee Jr. regarding this change. Naturally due to this, another abatement notice had to be served on John Timm. This was served personally to John Timm however could not be done within the 10 day notice period and still leave the request on city council agenda. The request for demolition was then removed with the next tentative date being January 21, 2010

December 29, 2009 - While serving Mr. Timm, he was quite confused why he was receiving this as he stated that he had not signed anything, this was not his property and wanted nothing further to do with it. He had asked how it was possible that they could deed this property to him without his consent or knowledge. I advised Mr. Timm that he consult with an attorney reference this but the property was in his name so he had to be served with the notice to abate. He was also advised that this would most likely be on city council agenda for the meeting on the 21st.

January 07, 2010 – John Timm had come into the office to speak with Planning, Zoning and Building Safety Director, Steve Boka regarding this property and the abatement notice. I was only involved in a very small portion of this discussion but again Mr. Timm seemed to be questioning how this could happen without his signature or consent. He was advised again that he needed to seek legal advice for this.

January 07, 2009 – A letter was received by William Hargrafen, attorney representing John Timm in the matter of 103 West 11th Street. The letter was a request for hearing regarding 103 West 11th. This would then also be placed on city council agenda.

This appeal letter is included in the case file and contains three points of consideration, none of which are related directly to the abatement of the structure.

January 11, 2010 – A letter was received via fax from the law office of John Wunder. Mr. Wunder was now advising that he was representing John Timm in this matter and as he had just received this case, requested a delay for city council to hear this request on Jan. 21. Mr. Wunder's reason for the request was not specific other than his preparation time. After consulting with Steve Boka and City Attorney Harvey Allbee Jr., I responded back to Mr. Wunder via fax.

January 12, 2010 – Response letter to Mr. Wunder requesting clarification for the reason for delay as if Mr. Timm needed more time to arrange demolition, this office would be more than happy to work with him direct otherwise per City Attorney we would continue to move forward with the abatement due to the condition of the property, the number of complaints regarding the property, the amount of time that the structure had already set and lastly, Mr. Timm had already been denied a request by the Zoning Board of Adjustment to rebuild this property.

Information Compiled and Submitted By; Ken Rogers, Senior Health and Housing Inspector / Code Enforcement