



CITY OF MOSES LAKE STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev Dir / Deputy City Manager
Date: July 12, 2016
Proceeding Type: Motion
Subject: Resolution - Gerber Request to Build On Unplatted Property

Legislative History:

• First Presentation:	July 12, 2016
• Second presentation:	
• Action:	Resolution

Staff Report Summary

Community Development has received a building permit application from Mr. Lee Gerber for a new commercial building at 6171 S. Frontage Rd. The subject site does not currently meet our development standards and is unplatted. Mr. Gerber has requested a building permit be authorized in accordance with MLMC 16.020.040, Unplatted Areas

Background

A building permit cannot be issued on unplatted property in accordance to MLMC 16.02.040 unless the City Council finds that the public interest will not be adversely affected by the issuance of such a permit. See attached.

Fiscal and Policy Implications

N/A

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none">Consider the building permit application request	Find that the request meets the provisions of MLMC 16.02.040 and grant the building permit
<ul style="list-style-type: none">Take no action	No building permit is granted

Staff Recommendation

Staff recommends that City Council approve the request for a building permit and require a Covenant insuring future installation of deficient infrastructure in accordance with our development standards current at the time of installation.

Attachments

A	Building Permit Application
B.	Resol. # 3624

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel

RESOLUTION NO. 3624

A RESOLUTION ALLOWING SAGEBRUSH HOLDING, LLC

RECITALS:

1. Moses Lake Municipal Code 16.12.030 allows for the issuance of a building permit to a proponent who wishes to build on unplatted property after a resolution from the City Council.
3. Sagebrush Holding, LLC has requested the City Council to allow building on unplatted property described as follows:

That portion of the south half of the Southwest Quarter of Section 30, Township 19 North, Range 28 East, W.M., County of Grant, State of Washington, as delineated and described on the Record of Survey Drawing prepared by Western Pacific Engineering and Survey, Inc., dated April, 2014, lying southerly of the parcel described in the Warranty Deed Filed under Grant County Auditor File Number 572365, and lying west of the following described line: Commencing at a 2" aluminum cap marking the southeast corner of the Southwest Quarter of said Section 30; Thence North 88°57'10" West, coincident with the south line of the said Southwest Quarter, a distance of 1533.15 Feet to the beginning of the line; Thence North 00°30'20" East a distance of 439.47 Feet, more or less to the said southerly right of way boundary for said State Route 90 and the terminus of said line.

RESOLVED:

1. That Sagebrush Holding, LLC be allowed to construct a 3,000 square foot building on unplatted property located adjacent to South Frontage Road East.

Adopted by the City Council on July 12, 2016.

ATTEST:

Todd Voth, Mayor

W. Robert Taylor, Finance Director

2. The Uniform Housing Code published by the International Conference of Building Officials, most current edition. (Ord. 2531, 10/13/09; Ord. 2475, 6/23/09; Ord. 2172, 7/27/04; Ord. 2073, 7/23/02)
- 16.02.030 Filing of Copies of Codes: The city shall maintain on file not less than one (1) copy of the codes adopted in this chapter and the codes shall be open to public inspection. (Ord. 2172, 7/27/04; Ord. 2073, 7/23/02)
- 16.02.040 Unplatted Areas: No building permit or other development permit shall be issued for any lot, tract or parcel of land divided in violation of Chapter 58.17 RCW or the platting ordinances and regulations of the city. No building permit or other development permit shall be issued for any unplatted property not otherwise permitted to be issued a building permit unless the City Council finds that the public interest will not be adversely affected by the issuance of such a permit. The standards to determine if the public interest will be adversely affected includes but is not limited to consideration of the installation or existence of adequate sewer and water, conformance to lot size requirements, existence of street, sidewalk and curb improvements, access to the site, all as respects the proposed building site and the surrounding area. The City Council may condition the issuance of a building permit on unplatted land on the installation or completion of such utility, street and sidewalk improvements or other conditions as the City Council upon recommendation of staff shall deem appropriate. The City Council shall make the grant of the privilege to build on unplatted land specific as to the proposed building activity and personal to the applicant. The grant of such privilege shall expire if a building permit is not obtained within six (6) months of the adoption of the resolution provided for herein unless the applicant requests and obtains an additional thirty (30) day extension from the Community Development Director. Any request for the thirty (30) day additional extension must be submitted in writing to the Community Development Director prior to the expiration of the six (6) month limitation period. The Community Development Director has the discretion to grant the additional extension only when no significant development code changes have occurred or will occur during the extension period, there is demonstrable proof of substantial progress made by the applicant, and the request serves the public health, safety and welfare. No more than one (1) thirty (30) day additional extension may be granted to any applicant. The City Council shall only direct the issuance of such a permit by a resolution of the City Council. The following construction is exempt from City Council resolution:
- A. Remodeling of an existing, conforming building.
 - B. Construction of a temporary structure.
 - C. Fences
 - D. Signs (Ord. 2814, 5/24/16; Ord. 2686, 8/13/13; Ord. 2475, 6/23/09; Ord. 2172, 7/27/04; Ord. 2073, 7/23/02)
- 16.02.045 Building Prior to Filing Final Plat: Building permits are allowed to be issued prior to filing the final plat after the following conditions are met:
- A. The preliminary major plat of the proposed subdivision has been approved by the City Council or the preliminary short plat of the proposed subdivision has been approved by the Community Development Director.
 - B. The construction plans for all improvements have been approved by the City Engineer.
 - C. A performance bond, or other secured method approved by the City Attorney, has been approved by the Community Development Director in the amount of one hundred fifty percent (150%) of the cost of completing all the remaining improvements that are required by the Moses Lake Municipal Code and the Community Street and Utility Standards, and filing the final plat. (Ord. 2172, 7/27/04; Ord. 2073, 7/23/02)

Dear Hon. Mayor and City Council,

I own roughly 10 acres of unplatted property south of I-90, west of Moses Lake, across the freeway from the golf course. It is approximately 1,080 feet long by 460 feet deep. This property is surrounded by government owned property to the west and south. I see very little chance of any of the surrounding property ever being developed beyond what it is now. My acreage is zoned light industrial.

I would like to be allowed to build on the most westerly one half of this property. The building would consist of a 3000 square foot all metal building. The office is existing, has its own well and sewer system, and is more than ample for the number of employees ever expected to work there. City water and sewer would cost hundreds of thousands of dollars to supply this area and would end up with stagnant water if it wasn't looped under the freeway.

I have worked out a fire protection plan with the City of Moses Lake Fire Department that would meet the requirements for these larger buildings. This consists of a water supply of 240,000 gallons, available year round. Two hydrants are located approximately 25' east of the 240,000-gallon storage vault. One north west of the 12,000 square foot building and one east of the 12,000 square foot building.

I am requesting a waiver to chapter 13.07.020 of the City Municipal Code which would require that I connect to the city water system. I am also asking that I be allowed to build on unplatted property.

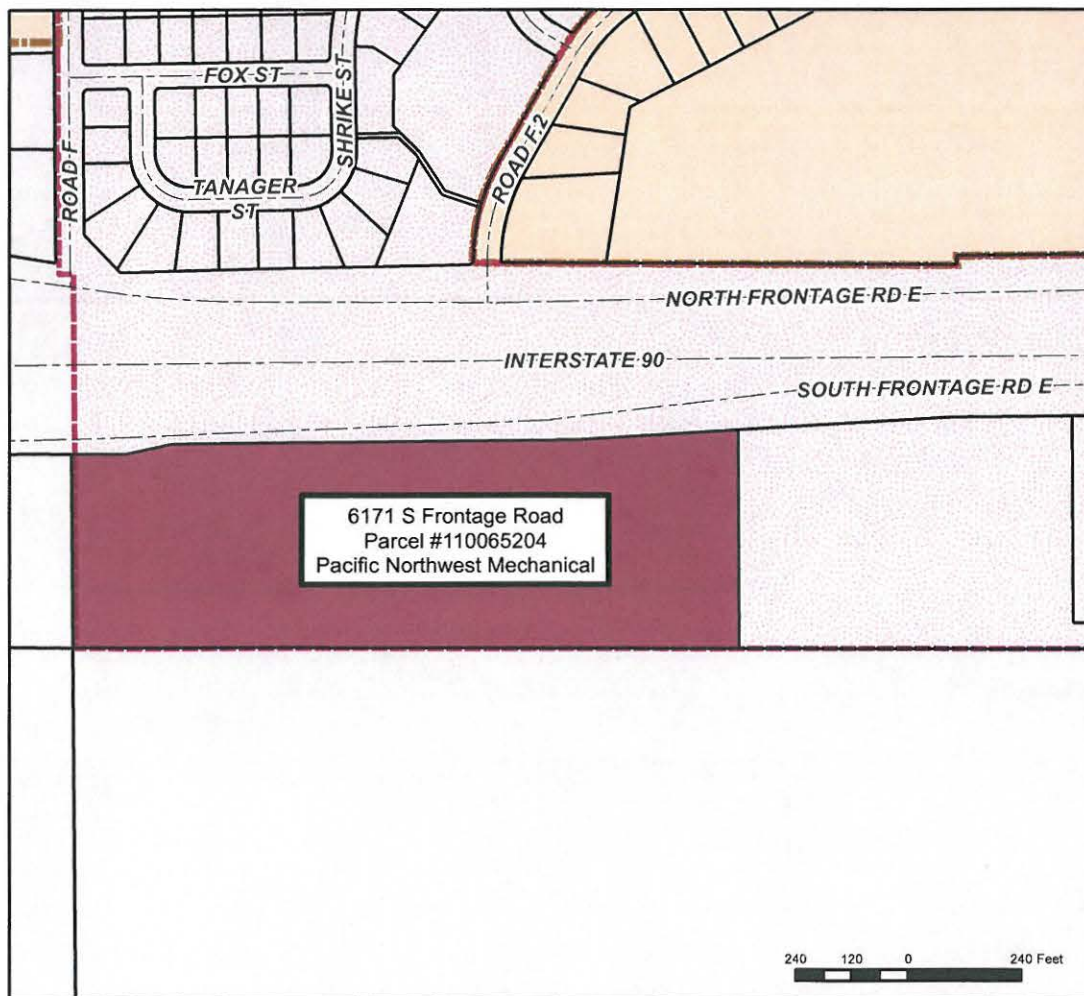
I want to thank you for your consideration of these requests and hope that we can build a welcoming start to the west end of Moses Lake

Sincerely,



Lee Gerber Trustee

Blue Sky Revocable Trust



LEGEND

- COUNCIL AGENDA SITE
- CITY LIMITS
- UGA BOUNDARY
- MOSES LAKE



REQUEST TO BUILD ON
UNPLATTED PROPERTY



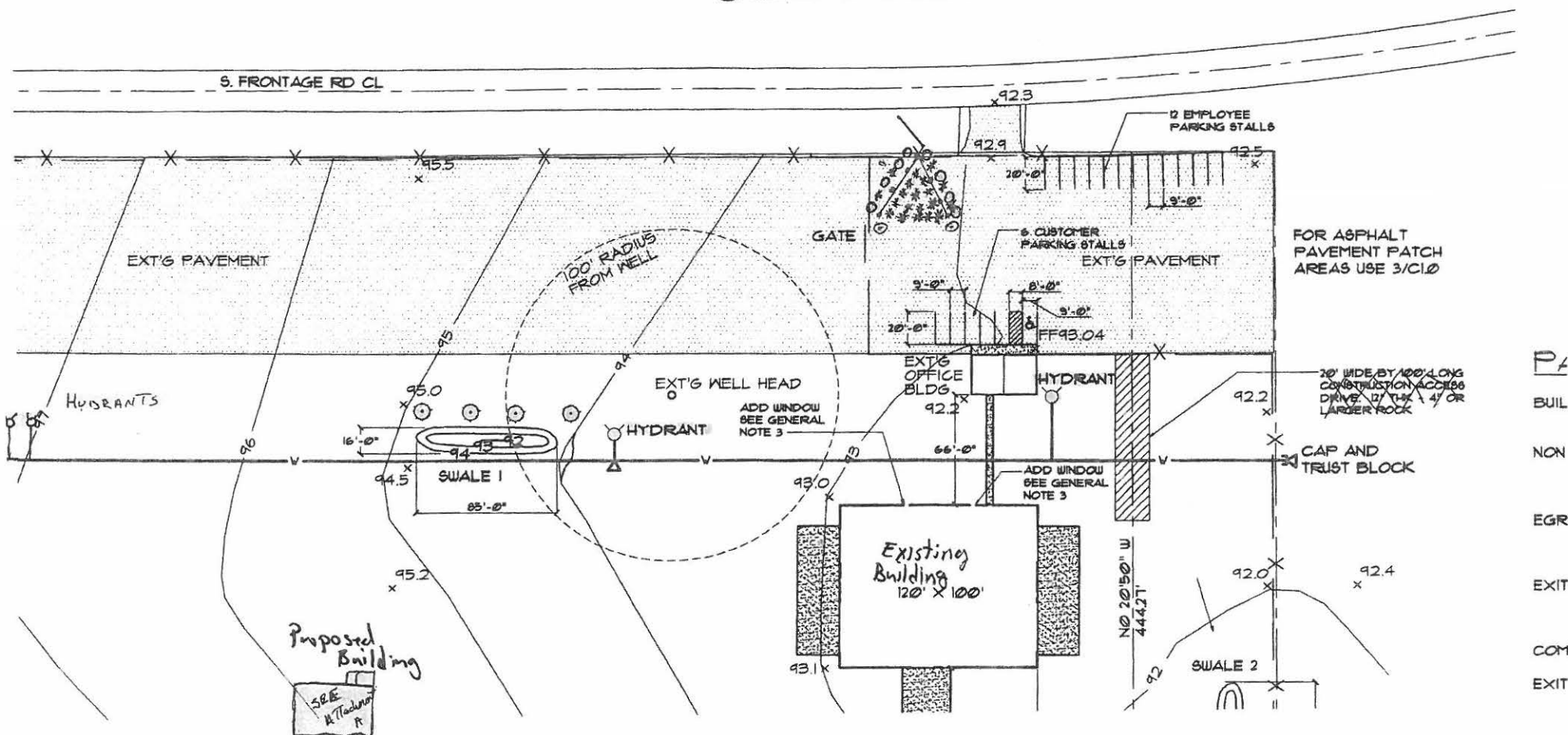
CITY OF MOSES LAKE
COMMUNITY DEVELOPMENT
PLANNING DIVISION

Date: 6/10/2016

CMS

S. FRONTAGE RD CL

- 4EA Pine Trees
9 1/2" 8 1/2" 7 1/2" 6 1/2"
- 8ea Column Rock 48" high
- * 25ea Yucca 36" High
- 26A' Pine Trees 18"-24" Mature





CITY OF MOSES LAKE STAFF REPORT

To: John Williams, City Manager
From: Spencer Grigg, Parks and Recreation Director
Date: July 12, 2016
Proceeding Type: MOTION
Subject: Resolution - Accept cash donation from Rory and Deanna Muller of BUDU Racing

Legislative History:

• First Presentation:	July 12, 2016
• Second presentation:	
• Action:	Motion

Staff Report Summary

Attached for Council approval is a resolution accepting a cash donation from Rory and Deanna Muller of BUDU Racing in the amount of \$800.00. The cash donation is to be used to go towards recreation programs.

Background

The Parks and Recreation Department partners with BUDU Racing each year to promote various fun runs and races for the community.

Fiscal and Policy Implications

n/a

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none"><i>Motion</i>	Donation would be accepted and used to support recreation programs.
<ul style="list-style-type: none"><i>Take no action.</i>	Donation would not be accepted and no additional funds would be available to support recreation programs.

Staff Recommendation

Staff recommends that the Moses Lake City Council approve the attached resolution and accept the cash donation of \$800.00 from Rory and Deanna Muller of BUDU Racing.

Attachments

A.	Resolution No. <u>3620</u>
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Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
<ul style="list-style-type: none">		

RESOLUTION NO. 3620

A RESOLUTION ACCEPTING A CASH DONATION OF \$800.00
FROM RORY AND DEANNA MULLER
OF BUDU RACING, LLC

RECITALS:

1. Rory and Deanna Muller of Budu Racing have donated eight hundred dollars (\$800.00) to the City of Moses Lake to be used by the Parks and Recreation Department for recreational programs.

RESOLVED:

1. The \$800.00 donation is accepted.
2. The City of Moses Lake wishes to express its sincere appreciation to Rory and Deanna Muller of Budu Racing.

Adopted by the City Council on July 12, 2016

Todd Voth, Mayor

ATTEST:

W. Robert Taylor, Finance Director



CITY OF MOSES LAKE
STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev. Director/Deputy City Manager
Date: July 12, 2016
Proceeding Type: MOTION
Subject: Resolution – Nuisance Abatement – 607 S. Hawthorne

Legislative History:

• First Presentation:	July 12, 2016
• Second presentation:	
• Action:	Motion

Staff Report Summary

Attached is a resolution providing for the abatement of a nuisance at 607 S. Hawthorne owned by Jose M. and Amelia C. Torres. The Council should hold a hearing to consider the allegations of the Code Enforcement Officer that the property contains a public nuisance which has not been corrected. If the Council concurs that a public nuisance exists, the resolution should be adopted allowing the City to remove the public nuisance.

Background

The code enforcement matter at 607 S. Hawthorne was found by the Code Enforcement Officer while on routine patrol of the city. In accordance with MLMC 8.14, Nuisances, the site was inspected and determined to be a nuisance pursuant to MLMC 8.14. See attached May 9, 2016 Notice of Violation and Order to Correct or Cease Activity.

Fiscal and Policy Implications

N/A

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none"> Consider the Resolution abating the existing nuisances at 607 S. Hawthorne 	Compliance with MLMC 8.14 Nuisances
<ul style="list-style-type: none"> Consider the Resolution and take no action. 	Non-Compliance with MLMC 8.14, Nuisances

Staff Recommendation

Staff recommends that City Council consider abating the existing nuisance at 607 S. Hawthorne and pass the Resolution as presented.

Attachments

A.	Resolution No. 3621
B.	Exhibits 1 – 4

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
<ul style="list-style-type: none"> Resolution 	Nuisance Abatement	City Attorney Katherine Kenison

RESOLUTION NO. 3621

A RESOLUTION DETERMINING THAT JOSE M. AND AMELIA C. TORRES ARE THE OWNERS OF CERTAIN REAL PROPERTY WITHIN THE CITY; THAT A NUISANCE REQUIRING ABATEMENT BY CITY FORCES OR FORCES CONTRACTED BY THE CITY EXISTS ON SUCH PROPERTY; AND DIRECTING THE USE OF SUCH FORCES TO ABATE THE NUISANCE FOUND

Recitals:

1. Real Property Location and Ownership. It is alleged by a Code Enforcement Officer of the City, a person authorized to enforce the ordinances and municipal code of the City, that the real property located at 607 S. Hawthorne Drive (Lot 26, Block 2, Lakeview Terrace #2), Parcel #101100000, Moses Lake, Washington, is the site of public nuisance violations of Moses Lake Municipal Code (MLMC) 8.14.030.U. The records of Grant County show the owners of the subject property to be Jose M. & Amelia C. Torres, 607 S. Hawthorne Drive, Moses Lake, WA 98837.
2. Notice. On May 9, 2016, the Code Enforcement Officer caused to be delivered by regular mail and certified mail to the owner of record of the subject property a Notice of Violation and Order to Correct or Cease Activity. No appeal was filed to challenge that order. The time to comply under that order has passed. The nuisance described in that order has not been abated by correction of the condition of the property and a nuisance continues to exist on the subject property. On June 21, 2016, the Code Enforcement Officer caused to be delivered to Jose M. And Amelia C. Torres a notice of the intent of the City Council to consider adoption of a resolution such as this at its meeting of July 12, 2016. Such notice was in writing, in the English language and was delivered by return receipt mail and regular mail to the record owner of the subject property.
3. Violations. It has been established by the Notice of Violation and Order to Correct or Cease Activity that the following violations exist on the subject property and have not been corrected:
 - 3.1 A violation of MLMC 8.14.030.U - Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.
 - U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing

dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

4. Hearing. On July 12, 2016 the Moses Lake City Council conducted a hearing to consider the allegations of the Code Enforcement Officer that the subject property contains a public nuisance ordered corrected which remains uncorrected and that the record owner is responsible for the costs of correcting and abating such violations if such corrections and abatement is accomplished by City forces or forces contracted by the City for such purpose. All interested persons were permitted to provide written or oral evidence relevant to the issue.

5. Evidence:

- 5.1. The following persons testified under oath:

Rick Rodriguez, Moses Lake Code Enforcement Officer

- 5.2. The following exhibits were made a part of the record of the proceedings:

EXHIBIT #1: Moses Lake Municipal Code Chapter 8.14.030.U

EXHIBIT #2: Notice of Violation and Order to Correct or Cease Activity dated May, 9, 2016 from the Code Enforcement Officer addressed to Jose M. And Amelia C. Torres, 607 S. Hawthorne, Drive, Moses Lake, WA 98837.

EXHIBIT #3: Pictures taken by Code Enforcement Officer of the property located at 607 S. Hawthorne Drive, Moses Lake, Washington.

EXHIBIT #4: Letter dated June 12, 2016, from the Code Enforcement Officer to Jose M. And Amelia C. Torres advising the property owner of the hearing regarding abatement of property, scheduled for July 12, 2016.

Resolved:

1. A public nuisance in violation of MLMC 8.14.030 U exists on the subject property at 607 S. Hawthorne Drive, Moses Lake, Washington. Jose M. And Amelia C. Torres, 607 S. Hawthorne Drive, Moses Lake, WA 98837 are the record contract owners of the subject property per the records of Grant County.
2. The public nuisance located upon the subject property consists of:
 - 2.1. Weeds and grasses in excess of 12 in height
3. The maintenance of these public nuisance violations on the subject property by the record owner is detrimental to the health, safety, welfare, peace and tranquility of the residents of the City impacting the quality of life and diminishing property values.
4. Jose M. And Amelia C. Torres, the record contract owners, have fifteen (15) days from the date of the adoption of this resolution to cause the nuisance violations listed herein to be removed to the satisfaction of the Code Enforcement Officer. Those improvements include the following:
 - 4.1 Weeds and grasses must be cut to lower than 12" in height

5. City staff shall provide a status report to City Council on the progress of the record contract owners and occupant to make the clean up required on the subject property. If the improvements, as listed above, are not to the satisfaction of the Code Enforcement Officer, the City is authorized to use City forces or contract forces to cause the identified public nuisances to be removed from the subject property to the satisfaction of the City Manager. All costs of any removal of the identified public nuisances done at City expense shall be recovered by the City Manager by all reasonable means including immediate assignment of the costs so incurred for collection.
6. A copy of this resolution shall be provided to the record contract owner by return receipt and regular mail after its approval by the City Council.

Adopted by the City Council on July 12, 2016.

Todd Voth, Mayor

ATTEST:

W. Robert Taylor, Finance Director

8.14.030 Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.

U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.

1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

NOTICE OF VIOLATION AND ORDER TO CORRECT OR CEASE ACTIVITY

DATED: Monday, May 9, 2016

ISSUED TO:

JOSE M & AMELIA C TORRES
607 S HAWTHORNE DR
MOSES LAKE, WA 98837-1840

CASE #: COD2016-0457

YOU ARE HEREBY ORDERED TO CORRECT OR CEASE THE ACTIVITY AS FOLLOWS:

Weeds and Grasses in excess of 12" in height are present in the front and back yard areas of this home.

The City is requiring these corrections listed on this Notice and Order be accomplished by Thursday, May 19, 2016.

ACTION NECESSARY TO CORRECT VIOLATION

Weeds and Grasses must be cut to lower than 12" in height.

LOCATION OF UNLAWFUL CONDITION

LOCATION: 607 S HAWTHORNE DR, MOSES LAKE
LEGAL DESC: Lot 26 Block 2 Lakeview Terrace # 2

PARCEL: 101100000

PROVISIONS OF THE CITY OF MOSES LAKE CODE VIOLATED

8.14.030.U - Maintenance of grasses, weeds, etc

Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground. 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property. 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

YOU ARE FURTHER NOTIFIED THAT THE MOSES LAKE CITY CODE PROVIDES FOR THE FOLLOWING PENALTIES:

1. Any violation for which a Notice of Violation and Order to Correct or Cease Activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5000), beginning on the day the correction was to be completed. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation. [1.20.050(E)(1)].
2. If a penalty has been assessed pursuant to 1.20.050(E)(1), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.

YOU MAY APPEAL THIS NOTICE AND ORDER TO THE HEARING EXAMINER WITHIN TEN (10) DAYS, PURSUANT TO SECTION 20.03.050 OF THE MOSES LAKE CITY CODE AND BY PAYMENT OF AN \$800 FEE.

YOU ARE FURTHER NOTIFIED THAT IF THE AFORMENTIONED VIOLATION IS NOT CORRECTED AS SPECIFIED HERIN THIS MATTER WILL BE REFEREEED TO THE CITY ATTORNEY FOR CIVIL ENFORCEMENT BY INJUNCTION OR OTHER APROPRIATE ACTION.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Hollen". The signature is fluid and cursive, with the first name "Brett" and last name "Hollen" clearly distinguishable.

BRETT HOLLEN

Code Enforcement Officer



04/28/2016 07:52



04/28/2016 07:52



04/28/2016 07:52



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

DATED: Tuesday, June 21, 2016

JOSE M & AMELIA C TORRES
607 S HAWTHORNE DR
MOSES LAKE, WA 98837-1840

RE: Hearing to Permit City Abatement of Nuisance for case file #: *COD2016-0457*
Property Located at: 607 S HAWTHORNE DR, MOSES LAKE on Parcel 101100000

Via Regular Mail and Return Receipt Mail

JOSE M & AMELIA C TORRES

You are identified in the records of the Grant County Assessor as the record owner of real property located within the City of Moses Lake described as: Lot 26 Block 2 Lakeview Terrace # 2

This property is located at: 607 S HAWTHORNE DR, MOSES LAKE on Parcel 101100000

On Monday, May 9, 2016 the City of Moses Lake mailed to you by regular mail and return receipt mail a Notice of Violation and Order to Correct or Cease Activity within the time allowed by the City Code. The time specified in that Notice of Violation and Order to Correct or Cease Activity has expired without compliance. As of Monday, June 20, 2016 the nuisance located on the subject property has not been corrected or removed.

Pursuant to Moses Lake Municipal Code (MLCM) 8.14.070 the City of Moses Lake is giving you notice that it will conduct a hearing before the Moses Lake City Council at the Council's regular meeting on July 12, 2016 which is more than ten days from the date of this letter. That meeting will begin at 7:00 p.m. in the Council Chambers in the Moses Lake Civic Center. The purpose of this hearing is for the City Council to determine if a nuisance exists on your property and if a nuisance is found to exist to direct the abatement of that nuisance by use of City contracted forces. The cost of that abatement will be assessed against you as the owner of the subject property. At the hearing all persons interested in the abatement of the nuisance existing on the subject property will have the opportunity to be heard under oath. At that time, you may present all relevant evidence you wish for the City Council to consider, whether that be documents, photos, or live testimony from yourself or others. At the conclusion of that hearing, it is expected the City Council will determine if an abatement of a nuisance located on the subject property should take place and when.

THIS HEARING IS IMPORTANT. YOUR FAILURE TO PARTICIPATE MAY IMPACT IMPORTANT RIGHTS IN YOUR PROPERTY.

If you have any questions, you may contact the City Manager's Office at the Moses Lake Civic Center, 401 S. Balsam, Moses Lake, WA, phone (509) 764-3701.

Sincerely,

RICK RODRIGUEZ
Code Enforcement Officer

cc: City Manager
City Attorney
Community Development Director



CITY OF MOSES LAKE
STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev. Director/Deputy City Manager
Date: July 12, 2016
Proceeding Type: MOTION
Subject: Resolution – Nuisance Abatement – 214 E. Seventh

Legislative History:

• First Presentation:	July 12, 2016
• Second presentation:	
• Action:	Motion

Staff Report Summary

Attached is a resolution providing for the abatement of a nuisance at 214 E. Seventh Avenue owned by Matthew and Joan Schauerman. The Council should hold a hearing to consider the allegations of the Code Enforcement Officer that the property contains a public nuisance which has not been corrected. If the Council concurs that a public nuisance exists, the resolution should be adopted allowing the City to remove the public nuisance.

Background

The code enforcement matter at 214 E. Seventh Avenue was found by the Code Enforcement Officer while on routine patrol of the city. In accordance with MLMC 8.14, Nuisances, the site was inspected and determined to be a nuisance pursuant to MLMC 8.14. See attached June 7, 2016 Notice of Violation and Order to Correct or Cease Activity.

Fiscal and Policy Implications

N/A

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none">Consider the Resolution abating the existing nuisances at 214 E. Seventh Avenue	Compliance with MLMC 8.14 Nuisances
<ul style="list-style-type: none">Consider the Resolution and take no action.	Non-Compliance with MLMC 8.14, Nuisances

Staff Recommendation

Staff recommends that City Council consider abating the existing nuisance at 214 E. Seventh Avenue and pass the Resolution as presented.

Attachments

A.	Resolution No. 3623
B.	Exhibits 1 – 4

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
<ul style="list-style-type: none">Resolution	Nuisance Abatement	City Attorney Katherine Kenison

RESOLUTION NO. 3623

A RESOLUTION DETERMINING THAT MATTHEW SCHAUERMAN AND JOAN SCHAUERMAN ARE THE OWNERS OF CERTAIN REAL PROPERTY WITHIN THE CITY; THAT A NUISANCE REQUIRING ABATEMENT BY CITY FORCES OR FORCES CONTRACTED BY THE CITY EXISTS ON SUCH PROPERTY; AND DIRECTING THE USE OF SUCH FORCES TO ABATE THE NUISANCE FOUND

Recitals:

1. Real Property Location and Ownership. It is alleged by a Code Enforcement Officer of the City, a person authorized to enforce the ordinances and municipal code of the City, that the real property located at 214 E. Seventh Avenue, Lots 13 & 14, Block 20, Burrell Tract, Parcel #090811000, Moses Lake, Washington, is the site of public nuisance violations of Moses Lake Municipal Code (MLMC) 8.14.030.U. The records of Grant County show the owners of the subject property to be Matthew Schauerma and Joan Schauerma, 220 N. Mitchell, Liberty Lake, WA 99019.
2. Notice. On June 7, 2016, the Code Enforcement Officer caused to be delivered by regular mail and certified mail to the owner of record of the subject property a Notice of Violation and Order to Correct or Cease Activity. No appeal was filed to challenge that order. The time to comply under that order has passed. The nuisance described in that order has not been abated by correction of the condition of the property and a nuisance continues to exist on the subject property. On June 21, 2016, the Code Enforcement Officer caused to be delivered to Matthew Schauerma and Joan Schauerma a notice of the intent of the City Council to consider adoption of a resolution such as this at its meeting of July 12, 2016. Such notice was in writing, in the English language and was delivered by return receipt mail and regular mail to the record owner of the subject property.
3. Violations. It has been established by the Notice of Violation and Order to Correct or Cease Activity that the following violations exist on the subject property and have not been corrected:
 - 3.1 A violation of MLMC 8.14.030.U - 8.14.030 - Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.
 - U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.

2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.
4. Hearing. On July 12, 2016 the Moses Lake City Council conducted a hearing to consider the allegations of the Code Enforcement Officer that the subject property contains a public nuisance ordered corrected which remains uncorrected and that the record owner is responsible for the costs of correcting and abating such violations if such corrections and abatement is accomplished by City forces or forces contracted by the City for such purpose. All interested persons were permitted to provide written or oral evidence relevant to the issue.
5. Evidence:
 - 5.1. The following persons testified under oath:

Rick Rodriguez, Moses Lake Code Enforcement Officer
 - 5.2. The following exhibits were made a part of the record of the proceedings:

EXHIBIT #1: Moses Lake Municipal Code Chapter 8.14.030.U

EXHIBIT #2: Notice of Violation and Order to Correct or Cease Activity dated May 5, 2016 from the Code Enforcement Officer addressed to Matthew Schauerman et al and Joan Schauerman et al, 220 N. Mitchell Drive, Liberty Lake, WA 99019-9428.

EXHIBIT #3: Pictures taken by Code Enforcement Officer of the property located at 214 E. Seventh Avenue, Moses Lake, Washington.

EXHIBIT #4: Letters dated June 21, 2016, from the Code Enforcement Officer to Matthew Schauerman and Joan Schauerman advising the property owners of the hearing regarding abatement of property, scheduled for July 12, 2016.

Resolved:

1. A public nuisance in violation of MLMC 8.14.030.U exists on the subject property at 214 E. Seventh Avenue, Moses Lake, Washington. Matthew Schauerman and Joan Schauerman, 220 N. Mitchell Drive, Liberty Lake, WA 99019 are the record contract owners of the subject property per the records of Grant County.
2. The public nuisance located upon the subject property consists of:
 - 2.1. Grass and weeds in excess of 12" in height
3. The maintenance of these public nuisance violations on the subject property by the record owner is detrimental to the health, safety, welfare, peace and tranquility of the residents of the City impacting the quality of life and diminishing property values.

4. Matthew Schauerman and Joan Schauerman, the record contract owners, have fifteen (15) days from the date of the adoption of this resolution to cause the nuisance violations listed herein to be removed to the satisfaction of the Code Enforcement Officer. Those improvements include the following:
 - 4.1 Weeds and grasses must be cut to lower than 12" in height in the yard areas and weeds must be removed from the sidewalk planter strips.
5. City staff shall provide a status report to City Council on the progress of the record contract owners and occupant to make the clean up required on the subject property. If the improvements, as listed above, are not to the satisfaction of the Code Enforcement Officer, the City is authorized to use City forces or contract forces to cause the identified public nuisances to be removed from the subject property to the satisfaction of the City Manager. All costs of any removal of the identified public nuisances done at City expense shall be recovered by the City Manager by all reasonable means including immediate assignment of the costs so incurred for collection.
6. A copy of this resolution shall be provided to the record contract owner by return receipt and regular mail after its approval by the City Council.

Adopted by the City Council on July 12, 2016.

Todd Voth, Mayor

ATTEST:

W. Robert Taylor, Finance Director

8.14.030 Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.

U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.

1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

NOTICE OF VIOLATION AND ORDER TO CORRECT OR CEASE ACTIVITY

DATED: Thursday, May 5, 2016

ISSUED TO:

MATTHEW SCHAUERMAN ETAL
220 N MITCHELL DR
LIBERTY LAKE, WA 99019-9428

CASE #: COD2016-0332

YOU ARE HEREBY ORDERED TO CORRECT OR CEASE THE ACTIVITY AS FOLLOWS:

Grass and Weeds in excess of 12" in height are present in the front, side, and back areas of this home. Weeds also present in the sidewalk planter strip.

The City is requiring these corrections listed on this Notice and Order be accomplished by Sunday, May 15, 2016.

ACTION NECESSARY TO CORRECT VIOLATION

Grass and weeds must be cut to lower than 12" in height in the yard areas, and weeds must be removed from the sidewalk planter strip.

LOCATION OF UNLAWFUL CONDITION

LOCATION: 214 E SEVENTH AVE, MOSES LAKE
LEGAL DESC: Lots 13 & 14 Block 20 Burress Tract

PARCEL: 090811000

PROVISIONS OF THE CITY OF MOSES LAKE CODE VIOLATED

8.14.030.U - Maintenance of grasses, weeds, etc

Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground. 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property. 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

YOU ARE FURTHER NOTIFIED THAT THE MOSES LAKE CITY CODE PROVIDES FOR THE FOLLOWING PENALTIES:

1. Any violation for which a Notice of Violation and Order to Correct or Cease Activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5000), beginning on the day the correction was to be completed. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation. [1.20.050(E)(1)].
2. If a penalty has been assessed pursuant to 1.20.050(E)(1), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.

YOU MAY APPEAL THIS NOTICE AND ORDER TO THE HEARING EXAMINER WITHIN TEN (10) DAYS, PURSUANT TO SECTION 20.03.050 OF THE MOSES LAKE CITY CODE AND BY PAYMENT OF AN \$800 FEE.

YOU ARE FURTHER NOTIFIED THAT IF THE AFORMENTIONED VIOLATION IS NOT CORRECTED AS SPECIFIED HERIN THIS MATTER WILL BE REFEREEED TO THE CITY ATTORNEY FOR CIVIL ENFORCEMENT BY INJUNCTION OR OTHER APROPRIATE ACTION.

Sincerely,

A handwritten signature in black ink that reads "Brett Hollen". The signature is written in a cursive, flowing style.

BRETT HOLLEN
Code Enforcement Officer



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

NOTICE OF VIOLATION AND ORDER TO CORRECT OR CEASE ACTIVITY

DATED: Tuesday, June 7, 2016

ISSUED TO:

Joan SCHAUERMAN ETAL
220 N MITCHELL DR
LIBERTY LAKE, WA 99019-9428

CASE #: COD2016-0721

YOU ARE HEREBY ORDERED TO CORRECT OR CEASE THE ACTIVITY AS FOLLOWS:

Weeds and Grasses in excess of 12" in height are present in the front, sides, and back areas of this home. Weeds also present in the sidewalk planter strips.

The City is requiring these corrections listed on this Notice and Order be accomplished by Friday, June 17, 2016.

ACTION NECESSARY TO CORRECT VIOLATION

Weeds and Grasses must be cut to lower than 12" in height in the yard areas. Weeds must be removed from the sidewalk planter strips.

LOCATION OF UNLAWFUL CONDITION

LOCATION: 214 E SEVENTH AVE, MOSES LAKE
LEGAL DESC: Lots 13 & 14 Block 20 Burress tract

PARCEL: 090811000

PROVISIONS OF THE CITY OF MOSES LAKE CODE VIOLATED

8.14.030.U - Maintenance of grasses, weeds, etc

Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground. 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property. 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.


YOU ARE FURTHER NOTIFIED THAT THE MOSES LAKE CITY CODE PROVIDES FOR THE FOLLOWING PENALTIES:

1. Any violation for which a Notice of Violation and Order to Correct or Cease Activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5000), beginning on the day the correction was to be completed. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation. [1.20.050(E)(1)].
2. If a penalty has been assessed pursuant to 1.20.050(E)(1), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.

YOU MAY APPEAL THIS NOTICE AND ORDER TO THE HEARING EXAMINER WITHIN TEN (10) DAYS, PURSUANT TO SECTION 20.03.050 OF THE MOSES LAKE CITY CODE AND BY PAYMENT OF AN \$800 FEE.

YOU ARE FURTHER NOTIFIED THAT IF THE AFORMENTIONED VIOLATION IS NOT CORRECTED AS SPECIFIED HERIN THIS MATTER WILL BE REFEREEED TO THE CITY ATTORNEY FOR CIVIL ENFORCEMENT BY INJUNCTION OR OTHER APROPRIATE ACTION.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Hollen". The signature is fluid and cursive, with the first name "Brett" and last name "Hollen" clearly distinguishable.

BRETT HOLLEN
Code Enforcement Officer





04/19/2016 08:31



04/19/2016 08:31



04/19/2016 08:32



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

DATED: Tuesday, June 21, 2016

MATTHEW SCHAUERMAN ETAL
220 N MITCHELL DR
LIBERTY LAKE, WA 99019-9428

RE: Hearing to Permit City Abatement of Nuisance for case file #: *COD2016-0332*
Property Located at: 214 E SEVENTH AVE, MOSES LAKE on Parcel 090811000

Via Regular Mail and Return Receipt Mail

MATTHEW SCHAUERMAN ETAL

You are identified in the records of the Grant County Assessor as the record owner of real property located within the City of Moses Lake described as: Lots 13 & 14 Block 20 Burress Tract

This property is located at: 214 E SEVENTH AVE, MOSES LAKE on Parcel 090811000

On Thursday, May 5, 2016 the City of Moses Lake mailed to you by regular mail and return receipt mail a Notice of Violation and Order to Correct or Cease Activity within the time allowed by the City Code. The time specified in that Notice of Violation and Order to Correct or Cease Activity has expired without compliance. As of Friday, June 17, 2016 the nuisance located on the subject property has not been corrected or removed.

Pursuant to Moses Lake Municipal Code (MLCM) 8.14.070 the City of Moses Lake is giving you notice that it will conduct a hearing before the Moses Lake City Council at the Council's regular meeting on July 12, 2016 which is more than ten days from the date of this letter. That meeting will begin at 7:00 p.m. in the Council Chambers in the Moses Lake Civic Center. The purpose of this hearing is for the City Council to determine if a nuisance exists on your property and if a nuisance is found to exist to direct the abatement of that nuisance by use of City contracted forces. The cost of that abatement will be assessed against you as the owner of the subject property. At the hearing all persons interested in the abatement of the nuisance existing on the subject property will have the opportunity to be heard under oath. At that time, you may present all relevant evidence you wish for the City Council to consider, whether that be documents, photos, or live testimony from yourself or others. At the conclusion of that hearing, it is expected the City Council will determine if an abatement of a nuisance located on the subject property should take place and when.

THIS HEARING IS IMPORTANT. YOUR FAILURE TO PARTICIPATE MAY IMPACT IMPORTANT RIGHTS IN YOUR PROPERTY.

If you have any questions, you may contact the City Manager's Office at the Moses Lake Civic Center, 401 S. Balsam, Moses Lake, WA, phone (509) 764-3701.

Sincerely,

RICK RODRIGUEZ
Code Enforcement Officer

cc: City Manager
City Attorney
Community Development Director



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

DATED: Tuesday, June 21, 2016

JOAN SCHAUERMAN ETAL
220 N MITCHELL DR
LIBERTY LAKE, WA 99019-9428

RE: Hearing to Permit City Abatement of Nuisance for case file #: *COD2016-0332*
Property Located at: 214 E SEVENTH AVE, MOSES LAKE on Parcel 090811000

Via Regular Mail and Return Receipt Mail

MATTHEW SCHAUERMAN ETAL

You are identified in the records of the Grant County Assessor as the record owner of real property located within the City of Moses Lake described as: Lots 13 & 14 Block 20 Burress Tract

This property is located at: 214 E SEVENTH AVE, MOSES LAKE on Parcel 090811000

On Thursday, May 5, 2016 the City of Moses Lake mailed to you by regular mail and return receipt mail a Notice of Violation and Order to Correct or Cease Activity within the time allowed by the City Code. The time specified in that Notice of Violation and Order to Correct or Cease Activity has expired without compliance. As of Friday, June 17, 2016 the nuisance located on the subject property has not been corrected or removed.

Pursuant to Moses Lake Municipal Code (MLCM) 8.14.070 the City of Moses Lake is giving you notice that it will conduct a hearing before the Moses Lake City Council at the Council's regular meeting on July 12, 2016 which is more than ten days from the date of this letter. That meeting will begin at 7:00 p.m. in the Council Chambers in the Moses Lake Civic Center. The purpose of this hearing is for the City Council to determine if a nuisance exists on your property and if a nuisance is found to exist to direct the abatement of that nuisance by use of City contracted forces. The cost of that abatement will be assessed against you as the owner of the subject property. At the hearing all persons interested in the abatement of the nuisance existing on the subject property will have the opportunity to be heard under oath. At that time, you may present all relevant evidence you wish for the City Council to consider, whether that be documents, photos, or live testimony from yourself or others. At the conclusion of that hearing, it is expected the City Council will determine if an abatement of a nuisance located on the subject property should take place and when.

THIS HEARING IS IMPORTANT. YOUR FAILURE TO PARTICIPATE MAY IMPACT IMPORTANT RIGHTS IN YOUR PROPERTY.

If you have any questions, you may contact the City Manager's Office at the Moses Lake Civic Center, 401 S. Balsam, Moses Lake, WA, phone (509) 764-3701.

Sincerely,

RICK RODRIGUEZ
Code Enforcement Officer

cc: City Manager
City Attorney
Community Development Director



CITY OF MOSES LAKE
STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev. Director/Deputy City Manager
Date: July 12, 2016
Proceeding Type: MOTION
Subject: Resolution – Nuisance Abatement – 2118 W. Spruce

Legislative History:

• First Presentation:	July 12, 2016
• Second presentation:	
• Action:	Motion

Staff Report Summary

Attached is a resolution providing for the abatement of a nuisance at 2118 W. Spruce owned by Lorange Pence. The Council should hold a hearing to consider the allegations of the Code Enforcement Officer that the property contains a public nuisance which has not been corrected. If the Council concurs that a public nuisance exists, the resolution should be adopted allowing the City to remove the public nuisance.

Background

The code enforcement matter at 2118 W. Spruce was found by the Code Enforcement Officer while on routine patrol of the city. In accordance with MLMC 8.14, Nuisances, the site was inspected and determined to be a nuisance pursuant to MLMC 8.14. See attached May 16, 2016 Notice of Violation and Order to Correct or Cease Activity.

Fiscal and Policy Implications

N/A

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none"> Consider the Resolution abating the existing nuisances at 2118 W. Spruce 	Compliance with MLMC 8.14 Nuisances
<ul style="list-style-type: none"> Consider the Resolution and take no action. 	Non-Compliance with MLMC 8.14, Nuisances

Staff Recommendation

Staff recommends that City Council consider abating the existing nuisance at 2118 W. Spruce and pass the Resolution as presented.

Attachments

A.	Resolution No. 3622
B.	Exhibits 1 – 4

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
<ul style="list-style-type: none"> Resolution 	Nuisance Abatement	City Attorney Katherine Kenison

RESOLUTION NO. 3622

A RESOLUTION DETERMINING THAT LORANCE PENCE IS THE OWNER OF CERTAIN REAL PROPERTY WITHIN THE CITY; THAT A NUISANCE REQUIRING ABATEMENT BY CITY FORCES OR FORCES CONTRACTED BY THE CITY EXISTS ON SUCH PROPERTY; AND DIRECTING THE USE OF SUCH FORCES TO ABATE THE NUISANCE FOUND

Recitals:

1. Real Property Location and Ownership. It is alleged by a Code Enforcement Officer of the City, a person authorized to enforce the ordinances and municipal code of the City, that the real property located at Lot 15, Block 5, Capistrano Park, Parcel #90967000, Moses Lake, Washington, is the site of public nuisance violations of Moses Lake Municipal Code (MLMC) 8.14. The records of Grant County show the owner of the subject property to be Lorance Pence, 26910 92nd Avenue NW, Suite C-5, Stanwood, WA 98292.
2. Notice. On May 16, 2016, the Code Enforcement Officer caused to be delivered by regular mail and certified mail to the owner of record of the subject property a Notice of Violation and Order to Correct or Cease Activity. No appeal was filed to challenge that order. The time to comply under that order has passed. The nuisance described in that order has not been abated by correction of the condition of the property and a nuisance continues to exist on the subject property. On June 23, 2016, the Code Enforcement Officer caused to be delivered to Lorance Pence a notice of the intent of the City Council to consider adoption of a resolution such as this at its meeting of July 12, 2016. Such notice was in writing, in the English language and was delivered by return receipt mail and regular mail to the record owner of the subject property.
3. Violations. It has been established by the Notice of Violation and Order to Correct or Cease Activity that the following violations exist on the subject property and have not been corrected:
 - 3.1 A violation of MLMC 8.14.030 U - Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.
 - U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

4. Hearing. On July 12, 2016 the Moses Lake City Council conducted a hearing to consider the allegations of the Code Enforcement Officer that the subject property contains a public nuisance ordered corrected which remains uncorrected and that the record owner is responsible for the costs of correcting and abating such violations if such corrections and abatement is accomplished by City forces or forces contracted by the City for such purpose. All interested persons were permitted to provide written or oral evidence relevant to the issue.
5. Evidence:
 - 5.1. The following persons testified under oath:

Tina Jewell, Moses Lake Code Enforcement Officer
 - 5.2. The following exhibits were made a part of the record of the proceedings:

EXHIBIT #1: Moses Lake Municipal Code Chapters 8.14.030.U

EXHIBIT #2: "Notice of Violation and Order to Correct or Cease Activity sent May 16, 2016 from the Code Enforcement Officer addressed to Lorange Pence, 26910 92nd Avenue NW, Suite C5, Stanwood, WA 98292-5437

EXHIBIT #3: Pictures taken by Code Enforcement Officer of the property located at Lot 15, Block 5, Capistrano Park, Moses Lake, Washington.

EXHIBIT #4: Letter dated June 23, 2016 from the Code Enforcement Officer to Lorange Pence advising the property owner of the hearing regarding abatement of property, scheduled for July 12, 2016.

Resolved:

1. A public nuisance in violation of MLMC 8.14 exists on the subject property at Lot 15, Block 5, Capistrano Park, Moses Lake, Washington. Lorange Pence, 26910 92nd Avenue Ne, Suite C-5, Stanwood, WA 98292 is the record contract owner of the subject property per the records of Grant County.
2. The public nuisance located upon the subject property consists of:
 - 2.1. Weeds and/or grass over 12" high
3. The maintenance of these public nuisance violations on the subject property by the record owner is detrimental to the health, safety, welfare, peace and tranquility of the residents of the City impacting the quality of life and diminishing property values.
4. Lorange Pence, the record contract owner, has fifteen (15) days from the date of the adoption of this resolution to cause the nuisance violations listed herein to be removed to the satisfaction of the Code Enforcement Officer. Those improvements include the following:
 - 4.1 Weeds must be cut back 10' from the sidewalk and neighboring properties and removed from the sidewalk planter strip

5. City staff shall provide a status report to City Council on the progress of the record contract owners and occupant to make the clean up required on the subject property. If the improvements, as listed above, are not to the satisfaction of the Code Enforcement Officer, the City is authorized to use City forces or contract forces to cause the identified public nuisances to be removed from the subject property to the satisfaction of the City Manager. All costs of any removal of the identified public nuisances done at City expense shall be recovered by the City Manager by all reasonable means including immediate assignment of the costs so incurred for collection.
6. A copy of this resolution shall be provided to the record contract owner by return receipt and regular mail after its approval by the City Council.

Adopted by the City Council on July 12, 2016.

Todd Voth, Mayor

ATTEST:

W. Robert Taylor, Finance Director

8.14.030 Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.

- U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 - 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
 - 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

NOTICE OF VIOLATION AND ORDER TO CORRECT OR CEASE ACTIVITY

DATED: Monday, May 16, 2016

ISSUED TO:

LORANCE PENCE
26910 92ND AVE NW STE C5
STANWOOD, WA 98292-5437

CASE #: COD2016-0502

YOU ARE HEREBY ORDERED TO CORRECT OR CEASE THE ACTIVITY AS FOLLOWS:

Weeds in excess of 12" in height are present on this property. Weeds also present in the sidewalk planter strip.

The City is requiring these corrections listed on this Notice and Order be accomplished by Thursday, May 26, 2016.

ACTION NECESSARY TO CORRECT VIOLATION

Weeds must be cut back 10' from the sidewalk and neighboring properties. Weeds must be removed from the sidewalk planter strip.

LOCATION OF UNLAWFUL CONDITION

LOCATION: 2118 W. SPRUCE ST MOSES LAKE, WA. 98837 PARCEL: 090967000
LEGAL DESC: Lot 15 Block 5 Capistrano Park

PROVISIONS OF THE CITY OF MOSES LAKE CODE VIOLATED

8.14.030.U - Maintenance of grasses, weeds, etc

Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground. 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property. 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

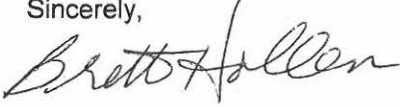
YOU ARE FURTHER NOTIFIED THAT THE MOSES LAKE CITY CODE PROVIDES FOR THE FOLLOWING PENALTIES:

1. Any violation for which a Notice of Violation and Order to Correct or Cease Activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5000), beginning on the day the correction was to be completed. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation. [1.20.050(E)(1)].
2. If a penalty has been assessed pursuant to 1.20.050(E)(1), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.

YOU MAY APPEAL THIS NOTICE AND ORDER TO THE HEARING EXAMINER WITHIN TEN (10) DAYS, PURSUANT TO SECTION 20.03.050 OF THE MOSES LAKE CITY CODE AND BY PAYMENT OF AN \$800 FEE.

YOU ARE FURTHER NOTIFIED THAT IF THE AFORMENTIONED VIOLATION IS NOT CORRECTED AS SPECIFIED HERIN THIS MATTER WILL BE REFEREEED TO THE CITY ATTORNEY FOR CIVIL ENFORCEMENT BY INJUNCTION OR OTHER APROPRIATE ACTION.

Sincerely,

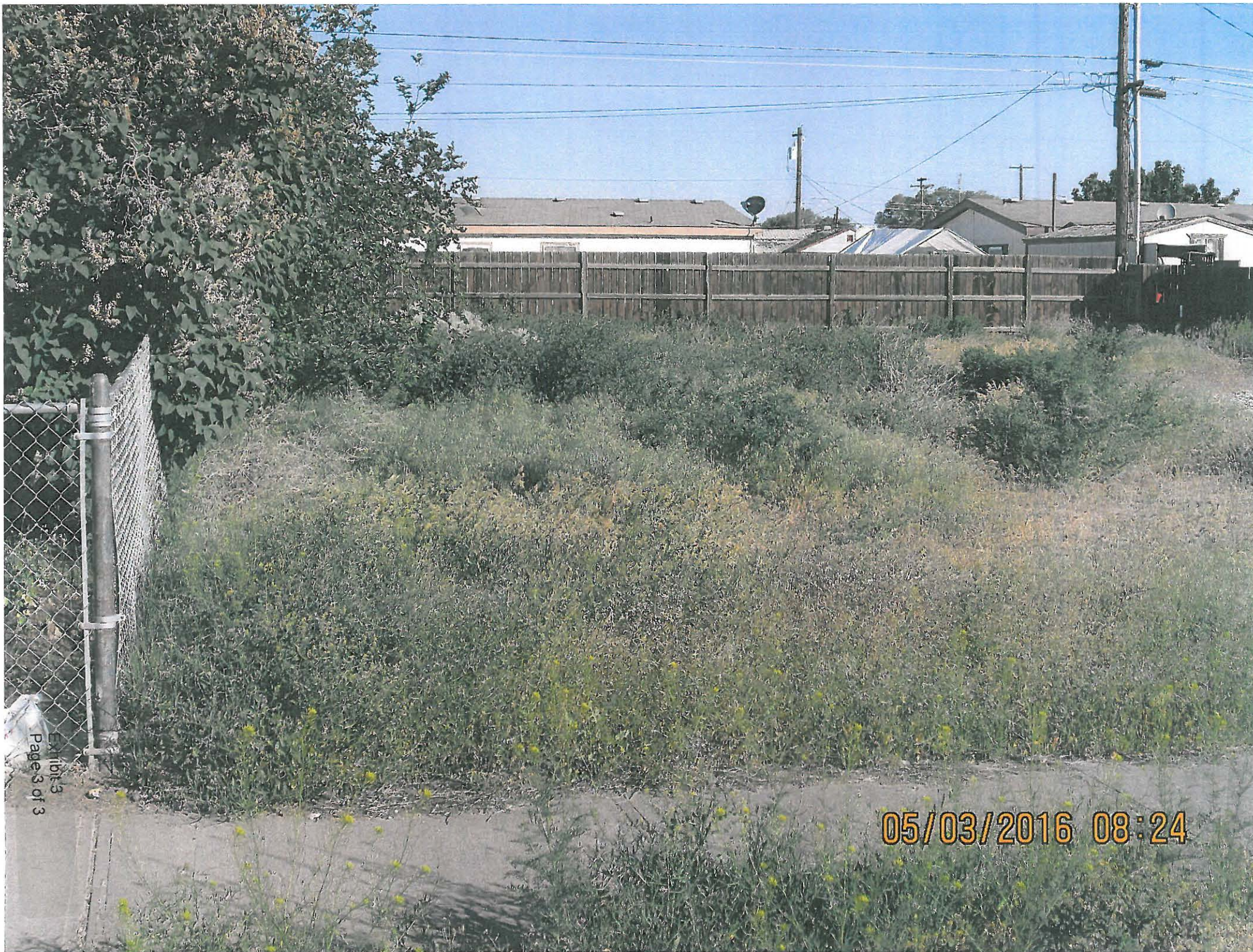
A handwritten signature in black ink, appearing to read "Brett Hollen". The signature is fluid and cursive, with the first name "Brett" and last name "Hollen" clearly distinguishable.

BRETT HOLLEN
Code Enforcement Officer



05/03/2016 08:25





05/03/2016 08:24



06/09/2016 09:35



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

DATED: Thursday, June 23, 2016

LORANCE PENCE
26910 92ND AVE NW STE C5
STANWOOD, WA 98292-5437

RE: Hearing to Permit City Abatement of Nuisance for case file #: *COD2016-0502*
Property Located at: 2118 W. SPRUCE ST MOSES LAKE, WA. 98837 on Parcel 090967000

Via Regular Mail and Return Receipt Mail

LORANCE PENCE

You are identified in the records of the Grant County Assessor as the record owner of real property located within the City of Moses Lake described as: Lot 15 Block 5 Capistrano Park

This property is located at: 2118 W. SPRUCE ST MOSES LAKE, WA. 98837 on Parcel 090967000

On Monday, May 16, 2016 the City of Moses Lake mailed to you by regular mail and return receipt mail a Notice of Violation and Order to Correct or Cease Activity within the time allowed by the City Code. The time specified in that Notice of Violation and Order to Correct or Cease Activity has expired without compliance. As of Thursday, May 26, 2016 the nuisance located on the subject property has not been corrected or removed.

Pursuant to Moses Lake Municipal Code (MLCM) 8.14.070 the City of Moses Lake is giving you notice that it will conduct a hearing before the Moses Lake City Council at the Council's regular meeting on July 12th, 2016, which is more than ten days from the date of this letter. That meeting will begin at 7:00 p.m. in the Council Chambers in the Moses Lake Civic Center. The purpose of this hearing is for the City Council to determine if a nuisance exists on your property and if a nuisance is found to exist to direct the abatement of that nuisance by use of City contracted forces. The cost of that abatement will be assessed against you as the owner of the subject property. At the hearing all persons interested in the abatement of the nuisance existing on the subject property will have the opportunity to be heard under oath. At that time, you may present all relevant evidence you wish for the City Council to consider, whether that be documents, photos, or live testimony from yourself or others. At the conclusion of that hearing, it is expected the City Council will determine if an abatement of a nuisance located on the subject property should take place and when.

THIS HEARING IS IMPORTANT. YOUR FAILURE TO PARTICIPATE MAY IMPACT IMPORTANT RIGHTS IN YOUR PROPERTY.

If you have any questions, you may contact the City Manager's Office at the Moses Lake Civic Center, 401 S. Balsam, Moses Lake, WA, phone (509) 764-3701.

Sincerely,

TINA JEWELL
Code Enforcement Officer

cc: City Manager
City Attorney
Community Development Director