

**RESOLUTION NO. 17- 58**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA OVERTURNING THE BUILDING OFFICIAL'S DETERMINATION TO ISSUE AN EMERGENCY DEMOLITION PERMIT TO AMPORTS FOR TWO HISTORIC BUILDINGS LOCATED AT 678 EAST H STREET, BENICIA, CA (APN 008-180-050)**

**WHEREAS**, on October 28, 2016 Amports filed an application for an emergency demolition permit to demolish two historic buildings located at 678 East H Street, Benicia, CA); and

**WHEREAS**, the Building Official reviewed the application and two Safety Assessment Program (SAP) reports dated December 27, 2015 and December 22, 2016 evaluating the structural integrity of the buildings, and applicable Uniform Building Codes; and

**WHEREAS**, following her review of all relevant documentation, the Building Official determined the two historic buildings were in imminent danger of collapse due to ongoing structural failure of the buildings and that the emergency demolition permit should be issued; and

**WHEREAS**, issuance of the emergency demolition permit is authorized by Benicia Municipal Code section 17.54.100 A, and is not subject to prior approval by the Community Development Director or the Historic Preservation Review Commission (HPRC) because of the emergency nature of the demolition application; and

**WHEREAS**, the appellants filed a timely appeal of the Building Official's decision on January 3, 2017; and

**WHEREAS**, on February 22, 2017 the Board of Building Appeals held a duly noticed public hearing on the subject appeal, considered all pertinent plans, documents, testimony, both oral and documentary, and all additional information contained in the staff report dated February 14, 2017; and

**WHEREAS**, motions were made by members of the Board of Building Appeals to grant the appeal and to deny the appeal, neither of which were seconded and therefore having the effect of upholding the decision of the Building Official to grant the emergency demolition permit; and

**WHEREAS**, pursuant to BMC section 1.44.030, Council Member Campbell requested review by the City Council of the Building Official's approval of an emergency demolition permit; and

**WHEREAS**, the City Council determined that it had jurisdiction to consider the matters raised in Councilmember Campbell's request for review; and

**WHEREAS**, on March 28, 2017, the City Council held a duly noticed public hearing on the request to review, considered all pertinent plans, documents, testimony, both oral and documentary, and all additional information contained in the staff report dated March 17, 2017.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia does hereby resolve as follows:

**SECTION 1.** CEQA Guidelines Section 15270(a) applies to this resolution - "Projects Which are Disapproved" which states "CEQA does not apply to projects which a public agency rejects or disapproves."

**SECTION 2.** The former Pacific Mail Steamship Foundry and Office buildings are one the few, if not only, remaining vestiges of one of Benicia's most historically significant industrial works, as well as the only 19<sup>th</sup> century industrial buildings still surviving on the waterfront.

**SECTION 3.** The City Council overturns the determination of the Building Official to issue an emergency demolition permit for two historic buildings located at 678 East H Street, Benicia, CA. based upon the following findings:

1. Notwithstanding the information contained in the staff report, the two SAP reports, and the Property Owner's structural engineer's report, that the buildings are in a severe state of deterioration, actions may be taken to stabilize the buildings which will mitigate the potential of imminent danger of collapse; and
2. The Property Owner has failed to properly secure the property, which has allowed trespassers to enter the buildings to commit acts of vandalism and set fires which have contributed to the poor condition of the buildings; and
3. The Property Owner has failed to maintain the historic landmarks contrary to BMC section 17.54.120 which obligates owners of designated landmarks such as these buildings to maintain structures and premises in good repair; and

**SECTION 4.** The City Council directs staff to undertake the following actions:

1. To reduce the potential risk to our Public Safety Responders, all steps practical should be taken to reduce the access to the structures, therefore reducing the potential for fires or other emergencies occurring at the sites which would lead to the potential risk for our responders. Staff should Initiate appropriate code enforcement actions to ensure the entire perimeter of the property is completely secured to prevent trespassers from entering the property and buildings. Appropriate actions include, but are not limited to, fencing, security personnel and surveillance cameras, motion sensitive lights that would come on should individuals attempt access to the site at night; and other measures to ensure the site is secure.
2. Initiate any and all appropriate legal and administrative proceedings to gain compliance with applicable municipal code provisions.
3. Require that the Property Owner immediately undertake actions to stabilize the buildings pursuant to the Secretary of Interior's Standards for the Treatment of Historic Properties in accordance with its Guidelines for Preserving, Rehabilitating, Reconstructing and Restoring Historic Properties. The owners shall work collaboratively with the City and the HPRC to achieve these measures. The timeline for these measures shall be 1-year at which time the City will re-evaluate the situation and the progress made to stabilize the structures. If it is determined that there is a concern for risk that still exists after efforts to complete these measures has occurred, then demolition will be reconsidered by the Council as the choice of last resort.
4. Staff shall develop an ordinance (Demolition by Neglect) to address problems, such as the one before the City Council that would place affirmative duties beyond what the City's current ordinance requires of a property owner to maintain their historic properties.
5. Staff shall report to the City Council on the status of this matter in six months.

**SECTION 5.** This Resolution shall become effective immediately upon its passage and adoption.

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On motion of Council Member **Campbell**, and seconded by Council Member **Patterson**, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 18<sup>th</sup> day of April 2017, and adopted by the following vote.

Ayes: **Council Members Campbell, Schwartzman, and Mayor Patterson**

Noes: **Council Members Hughes and Young**

Absent: **None**



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

5-2-17  
Date