



*Agenda #2*  
*Commission Meeting Date: August 17, 2016*  
**CITY OF GREAT FALLS**  
**COMMISSION AGENDA REPORT**

---

**Item:** Declaration of Nuisance

**From:** Craig Raymond, Director of Planning and Community Development

**Initiated By:** Craig Raymond, Director of Planning and Community Development

**Presented By:** Craig Raymond, Director of Planning and Community Development, Dave Dobbs City Engineer, and Dirk Johnson City Fire Marshall

**Action Requested:** Conduct a public hearing and adopt Resolution 10159 Declaring Certain property located at 1 Bay Drive, Lots 2 and 3 of Section 11, Township 20 North, Range 3 East Montana Principle Meridian, Cascade County, Montana, a Nuisance, order the Nuisance be abated and authorize City staff to force abatement if necessary.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10159, Declaring Certain property located at 1 Bay Drive, Lots 2 and 3 of Section 11, Township 20 North, Range 3 East Montana Principle Meridian, Cascade County, Montana, a Nuisance, order the Nuisance be abated and authorize City staff to force abatement if necessary.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Background/Recommendation:**

Beginning in November 2015, and continuing through February 2016, the Great Falls Department of Planning and Community Development (Department) received multiple written and verbal complaints about the condition of the property located at 1 Bay Drive, Great Falls, Montana 59404. The brick and mortar structure occupying that property has been subject to multiple complaints dating back to 2005. A title report was examined by the Department on July 8, 2016. The report revealed that Holman Grain owned the property.

Between June 2005 and the present, the Department made all efforts to work with Mr. Ken Holman, d.b.a. Holman Grain. The Department received several assurances from Mr. Holman that the Official Code of the City of Great Falls (OCCGF) deficiencies on the property would be cured. Mr. Holman has also stated numerous times that he is on the verge of selling the property

to developers who intend to restore or redevelop the property. However, compliance or redevelopment never occurred.

The property is now the subject of criminal prosecution in Great Falls Municipal Court; in that action Ken Holman d.b.a. Holman Grain is the Defendant. In the investigation of that matter a lawful search warrant was executed on July 5, 2016. The search warrant was executed by Officer Clint Houston. Officer Houston was accompanied, in the execution of the search warrant, by Craig Raymond and other Department representatives, Bruce Haman, City of Great Falls Building Official, Heather Rohlf, Code Enforcement Officer, Dirk Johnson, Great Falls City Fire Marshall, and Dave Dobbs, Great Falls City Engineer.

The execution of the search warrant revealed several conditions that were hazardous to public health and safety. The conditions included, but were not limited to, broken windows, roofing and wall materials not sealed to prevent weather and/or vermin intrusion as well as structural damage, large amounts of accumulated various sourced feces, deceased birds, structural support members missing or damaged, North facade structural and/or veneer failing and unsecured access to the structure.

**Fiscal Impact:** Abatement of the nuisance can be achieved in three ways. Should the owner cooperate and make satisfactory repairs to the building, the City will have no direct costs above the substantial staff time involved in the pursuit of enforcement efforts associated with this property. If the owner fails to cooperate and the City Commission formally declares the building and property a nuisance, the City will be obligated to contract either repair and clean-up of the property, or to raze the building and clean up the property. While formal bids have not been received by the City, the repair is estimated to be in the \$30,000 to \$50,000 range. Complete demolition and clean up is estimated to be \$40,000. If the City is to contract for this project, Hazard Removal funds will be used and a lien will be placed on the property equal to the total cost of the enforcement action, including staff time. If the property continues to languish in its current state, the fiscal impact will be continued declining property values and tax revenue.

**Staff Recommendation:** City staff recommends the City Commission vote to adopt Resolution 10159, Declaring Certain property located at 1 Bay Drive, Lots 2 and 3 of Section 11, Township 20 North, Range 3 East Montana Principle Meridian, Cascade County, Montana, a Nuisance, order the Nuisance be abated and authorize City staff to force abatement if necessary.

**Attachments/Exhibits:**

Resolution 10159

Photographs of the subject property

## **RESOLUTION 10159**

### **A RESOLUTION DECLARING CERTAIN PROPERTY LOCATED AT 1 BAY DRIVE, LOTS 2 AND 3 OF SECTION 11, TOWNSHIP 20 NORTH, RANGE 3 EAST MONTANA PRINCIPLE MERIDIAN, CASCADE COUNTY, MONTANA, A NUISANCE, ORDER THE NUISANCE BE ABATED AND AUTHORIZE CITY STAFF TO FORCE ABATEMENT IF NECESSARY.**

**WHEREAS**, Ken Holman d.b.a. Holman Grain, (hereinafter “property owner”), owner of the real property and structures located at 1 Bay Drive, Lots 2 and 3, of Section 11, Township 20 North, Range 3 East Montana, P.M.M., Cascade County, Montana, and within the incorporated boundaries of the City of Great Falls, was given notice pursuant to the Official Code of the City of Great Falls (OOCGF) Section 8.49.040, of a hearing before the City Commission on August 17, 2016, wherein said property owner was informed the City Commission would proceed to hear the testimony of City personnel and the testimony of any other interested party, who may be present, and desire to testify respecting the condition of the property; and

**WHEREAS**, said property owner was informed that the City Commission upon the conclusion of the hearing, would by resolution, declare its findings, and may declare the property to be a nuisance, and direct the owner to obtain the proper permits and physically commence abatement of the nuisance within ten (10) days, and to complete said abatement within thirty (30) days, by having the property repaired, demolished, removed or other appropriate act necessary to cure the nuisance; and

**WHEREAS**, said property owner was informed that failure to abate the nuisance would result in the property being the subject of repair, demolition, removal, or other appropriate act, as the case may be, by the City and the expenses thereof shall remain a lien on the property; and

**WHEREAS**, the City Commission has conducted the hearing on August 17, 2016, regarding the property pursuant to OCCGF Section 8.49.050, hearing the testimony of the City personnel and the testimony of any other interested party, who was present, and desired to testify respecting the condition of the property, the estimated cost of repair, demolition, removal or other appropriate action.

### **NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

1. Staff and other interested parties having presented evidence of the condition of the subject property, and having described the hazardous condition of the subject

property, the City Commission does hereby find the same to be a nuisance pursuant to OCCGF Section 8.49.040, and hereby directs the owner to commence abatement within ten (10) days of the date of this resolution to the satisfaction of the Great Falls Planning and Community Development Director, pursuant to OCCGF Section 8.49.050.

2. It is further ordered that, abatement, to the satisfaction of the Great Falls Planning and Community Development Director, be completed within thirty (30) days of the date of this resolution, pursuant to OCCGF Section 8.49.050.
3. It is further ordered that, if the owner fails to abate said nuisance as ordered and within the time allowed, the City Staff is directed to take any and all steps necessary to abate the nuisance with all expenses to attach as a lien against the property.
4. This Resolution shall be in effect for a twenty-four (24) month period from the date below.
5. City staff shall serve the said property owner with a copy of this resolution by certified mail, postage prepaid, and return receipt requested, as required by Section 8.49.050, OCCGF.

**BE IT FURTHER RESOLVED BY SAID CITY COMMISSION** that this Resolution shall become effective immediately upon its passage and approval.

**PASSED AND ADOPTED** by the City Commission of the City of Great Falls, Montana, on August 17, 2016.

---

Bob Kelly, Mayor

ATTEST:

---

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

---

Sara R. Sexe, City Attorney











































































