

**ONEONTA, NEW YORK - DECEMBER 6, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1**

**PRESENT: Chair Margery K. Merzig  
Commissioner Peter Friedman  
Commissioner Louis Tisenchek  
Commissioner David Hayes  
Commissioner Joseph Temming  
Council Member Madolyn Palmer**

Chair Merzig called the regular meeting to order and asked the Clerk to call the roll.

**PETITIONERS**

Chair Merzig stated there was one petitioner, Ms. Heck, in regard to her matter listed under old business. She said she would address that matter.

**OLD BUSINESS**

1. Follow-up on securing/clean-up of property: Margo Heck – 13 Baker Street
2. Administrative Fees Appeal: (Tabled 11/1/12) 147 Henry Street – Karina Goodrich
3. Administrative Fees Appeal: (Tabled 11/1/12) 10-14 High Street – Alan Rubin

Follow-up on securing/clean-up of property: Margo Heck – 13 Baker Street

Chair Merzig stated the board was looking at some photos of Ms. Heck's 13 Baker Street property and would also let Ms. Heck view them. She asked Code Inspector Hester to give his report.

Code Inspector Hester stated that he took the photos of Ms. Heck's property the last time he was there on November 21<sup>st</sup>. He said Code Enforcement Officer Chiappisi had been to the property more recently and how he described it to him it seemed to be basically the same condition. He said it looked like Ms. Heck tried to put up some sort of temporary fencing along the exterior collapsed wall in the rear. He said it was definitely temporary and definitely passable. He said on the north side of the garage there was no hardware on the door and he was able to push it right open. He said the barn was still accessible and there were still quite a few things in it, however nothing like there used to be but it was still a fire hazard and there was a daycare next door at 11 Baker Street. He said he did not know if it was a registered daycare but there were definitely children being picked up and dropped off there.

Commissioner Hayes expressed concern about children wandering outside and going to this house.

Commissioner Friedman expressed concern about there still being some combustibles in the garage. He said the shed in the back looked like it was full of garbage.

Ms. Heck questioned how Code Enforcement could go inside her buildings without permission.

Code Inspector Hester stated he did not go inside the buildings.

Chair Merzig stated her opinion was that this property was not yet secure and that the fence around the back of the house was an improvement but the garage was open.

Code Inspector Hester stated he took the photos through an open window and from the opening of the unsecured door that he pushed open. He said he did not step one foot inside the building.

Commissioner Friedman stated that Ms. Heck needed to protect her rights in some other way besides before this board. He said the board's concern was for the safety of the neighborhood, safety of the children in the neighborhood and safety of other properties. He said if Ms. Heck had a problem with the procedure and the methods that the board and Code Enforcement Office were using she had other ways of dealing with that. He said this procedure was about the condition of the property and what should be done about the property.

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**(Follow-up on 13 Baker Street)** continued

Ms. Heck stated as far as the hole had been enclosed.

Commissioner Friedman questioned which hole that was and Ms. Heck described it to be the space between the top of the foundation wall and the floor of the addition that was collapsing. He said there were some foam boards placed over it and was not enclosed. He said it was a visual barrier only and other than that it had no significance in terms of security.

Chair Merzig stated that was what she saw too. She said she knew the board appreciated the efforts that Ms. Heck has made in terms of taking some things away but she also heard Ms. Heck, and hoped she did not misunderstand her, that this was as much as she was going to do for the present.

Ms. Heck stated that her husband was in the hospital and was going to have to go into a nursing home and they had a car accident. She said there was not much more she could do.

Chair Merzig asked if the board had any more questions for Ms. Heck or Code Enforcement.

Hearing none the Chair stated that it seemed to her that the remedy was to unfortunately have the city take action because the board has been at this for months. She said Ms. Heck was making progress and knew she had tried but she did not think it was far enough along for the winter term and for Ms. Heck not being around to monitor the property. She said there was also quite a bit of trash around the property as shown in the photos and seen by all of the board members who have gone by the property. She said this property was an attractive nuisance because the property was apparently not well-maintained and it was logical that people would feel that there was access to the property. She said that was what the board was guarding against because the board did not want anyone hurt on this property and did not want a fire that would lead to a greater fire some place else. She said she believed the board should have the property more permanently secured. She said doing that would mean hiring a contractor probably and if possible remove the shed because it was not a permanent structure and was filled with trash. She said the Code Enforcement Officer and she had been discussing what the board could do in cases like this when there was access to the property that could not readily be either removed or rebuilt with city forces. She said they talked about putting a more permanent fence around the portion of the property that was open. She said the wire fence was a barrier but not adequate. She said she thought the city should board up the lower parts of the barn/garage so that no one could get in, put a more permanent fence up and clean up the property of all the trash outside.

Code Enforcement Officer Chiappisi stated his fear was that a child playing hide-and-seek could think that basement was an easy place to crawl into. He said he thought a large 6' wooden stockade style fence surrounding that whole back perimeter with sturdy posts would eliminate access to that basement unless someone really, really tried.

Ms. Heck questioned how anyone could get in with what she put there.

Chair Merzig responded what was put there was just fiberboard or insulation just tacked up and all one needed to do was just push on that and they could get in, it was not permanent.

Code Enforcement Officer Chiappisi stated in addition to the fence he would suggest posting it unsafe/keep out.

Commissioner Hayes stated he thought the board needed to act on this because of the concern with the daycare next door.

Ms. Heck questioned why the board did not define the kind of fence it wanted at the last meeting.

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**(13 Baker Street)** continued

Chair Merzig responded because the board had said it wanted the property secured but what was done did not make it secured. She said if Ms. Heck had questions she could have called the Code Enforcement Office any day and asked what would be adequate.

Ms. Heck stated she had figured that would have been adequate.

Commissioner Friedman stated at this point the proposal was to put a high stockade fence up where that wire fence was now, use something like plywood to enclose every part of the 1<sup>st</sup> floor of that barn/garage so that children could not possibly get in, remove the shed.

Ms. Heck stated the board was not going to remove that shed. She questioned why that had to be removed.

Chair Merzig stated because it was filled with trash and was accessible.

Ms. Heck stated she would put a lock on it, she was not moving it.

Commissioner Friedman stated the lock did not address the issue of what was garbage in it and rats could get into a shed like that. He said it had to be cleaned out at the very minimum.

Ms. Heck stated she did not think so. She said she thought the board was pushing this a little too much now. She said nothing was said about the shed before and now the board was bringing this up.

Chair Merzig stated that the board has talked over and over again about garbage on the property.

Ms. Heck stated the only garbage on the property was the tires and the board did not say anything about the back of the garage just the front.

Commissioner Friedman stated he took a lot of responsibility for the existence of the problem still. He said the city started dealing with this property at least 20 years ago and it has had a serious effect on property values in that neighborhood for 20 years. He said it was a blighting, cancerous type of a thing in the neighborhood and at this point he thought the board had to do something about it. He said Ms. Heck has had every opportunity over those 20 years to make this situation right and it has not happened. He said he thought everything suggested should be done.

Commissioner Hayes stated that the board also had a responsibility to Ms. Heck's neighbors.

Ms. Heck questioned if the board had looked at the fence right by the side of her garage and all that garbage and stuff there. She said nobody had mentioned any of that.

Commissioner Hayes stated that the board recognized the progress Ms. Heck has made and appreciated that but he was very concerned about the children next door. He said that was the board's responsibility and liability and that was what they were talking about.

Ms. Heck stated that her garage was all nailed up and nobody could get into it.

**MOTION**, made by Commissioner Hayes and seconded by Commissioner Friedman, that based on evidence presented, testimony heard and discussion had at the December 6, 2012 Board of Public Service meeting regarding the property of Ms. Margo Heck at 13 Baker Street the board orders the Code Enforcement Office to secure the property as discussed in its entirety specifically the access to the basement, remove the trash on the property per the direction of the Code Enforcement Office as well as secure the garage/barn and the shed and remove the contents within the shed.

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**(Voting)**

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Friedman  
Commissioner Tisenchek  
Commissioner Hayes

**Noes:** None

**Absent:** None

**MOTION CARRIED**

Voting followed this discussion.

Ms. Heck stated that was not trash in the shed but things she wanted to save.

Commissioner Friedman stated to more specific the opening that might be above any boards that somebody could throw something burning into should be sealed too. He suggested that Code Enforcement go up higher with plywood to do that.

Code Enforcement Officer Chiappisi questioned if it was just the trash or all contents should be removed from the shed.

Commissioner Hayes responded combustibles.

Commissioner Friedman stated the shed was wide open and he would say that the contents should be removed. He said if there was something of value in there other than as a recyclable he thought it should all be removed.

Ms. Heck stated she would remove it but could not do it until spring.

Commissioner Friedman stated it needed to be done right away.

Ms. Heck stated she did not think the city belonged in her shed at all. She said the board was going a little too far.

Chair Merzig apologized to Ms. Heck saying but this really had to finally happen.

Commissioner Friedman suggested that it may be worthwhile for Code Enforcement to get a warrant to go in the barn/garage with the Fire Department to make sure there was nothing toxic or hazardous in there because no matter with the board does it could not completely stop someone from starting a fire and causing a crisis.

Chair Merzig suggested that Ms. Heck contact the Code Enforcement Office.

**Administrative Fees Appeal: (Tabled 11/1/12) 147 Henry Street – Karina Goodrich**

Chair Merzig stated that the following letter was received in the Clerk's Office December 6, 2012 from Karina Goodrich:

*"Dear Mrs. Merzig and Board Members,*

*I have decided after the last meeting that I would not attend tonight. I would like to thank you for your patience and kindness at the last meeting. I am sure it was apparent I was not at all familiar with this process, I actually was under the impression that I was there to determine if my property was a rental or not. After leaving the meeting and feeling I had little options left asked Molly,*

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**(147 Henry Street) continued**

*Phillip and Dalton to vacate the property. Having already lost \$35,000 owning this property I began the process of surrendering the deed to 147 Henry St. in lieu of foreclosure to M&T Bank. This process should be complete before the end of this year. The house is currently vacant and will remain that way until the bank determines their course of action on this property.*

*In response to your questions, the property was occupied by me until January 2012 despite the comments made by the Code Office that my house had transient people living there. From January-June 2012 my house was occupied by my then unpaid YMCA intern Ron Alston and his cousin Ray Williams. Ron needed a temporary place to stay until he returned to Springfield Mass to complete his Masters Degree. We did not have a lease only a verbal agreement that they would pay the utilities and help me with the mortgage payments. The house was vacant from the beginning of July until August 12, 2012. At that time my step daughter Molly, moved in and her friends, Dalton Smith and Phillip Wright joined her September 17, 2012. They all vacated the premises on November 15, 2012. Again, there was no lease, only a verbal agreement that they would help me with the house expenses. I have enclosed a copy of the current listing with Benson Agencies, Brad Morley.*

*I would like to apologize for not remembering that I had completed a Certificate of Occupancy stating that it was a rental. This was done under duress after threatening phone calls from Mr. Chiappisi, stating he would haul me in front of a judge and have me arrested. Several times during our conversations I had to ask him to stop yelling at me. I am very surprised that Mayor Miller or the Board of Public Service would approve or condone such behavior. With much hesitation, I spoke with him briefly after completing the Certificate of Occupancy form, again telling him this property was not a rental and was being vacated and I had a contract for sale on it. He told me there was nothing that I needed to do. At no time was my property a rental property, I was bullied and intimidated into completing and returning the form. I was unaware that any charges were being applied to this property until I received a letter in October. I feel this was done intentionally by your Code Office.*

*There are a few points I would like to make in regards to the handling of this situation. First Mr. Chiappisi does not represent himself as a public servant, he presents himself as a person who prefers to use intimidation and bullying tactics to force people to do what he wants. Never have I ever been treated in this manner and found it to be rather unnerving. I also found the process of being seated next to Code employees and subject to their rude and unprofessional comments not a position I am willing to put myself in again. Mr. Chiappisi also seems to have a different interpretation of the code than even your board members. From my understanding of the codes I was able to find, if a family member is present in a home it is not a rental and that also seemed to be the consensus of the Board. However, Mr. Chiappisi repeatedly stated that any house not owner occupied was a rental.*

*Please let me know if you need further information.*

*Sincerely,"*

Chair Merzig stated that Ms. Goodrich indicated in her letter that her house was occupied by non-family members. She said that the board also received a note from Commissioner Friedman and the section of the code he referred to applied to rentals and the people who could live in a rental. She said one of the things that confused the board at the November meeting was whether this property was or was not a rental and whether the person Ms. Goodrich claimed was a family member was a family member. She said in all cases the property was not owner-occupied. She said she thought the administrative fees applied because it was not owner-occupied and Ms. Goodrich was collecting money from non-family members and when a family member moved in the fees were stopped. She said she thought it still related to Ms. Goodrich's unwillingness to take the responsibility for this as a

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(147 Henry Street) continued

rental. She said she felt for Ms. Goodrich because she had been in a difficult situation financially with paying for the house but it did not change the fact that she was notified about the administrative fees, and could have been taken care of the issues. She said communication went back and forth and Ms. Goodrich just said she was not going to do it.

**MOTION**, made by Chair Merzig and seconded by Commissioner Tisenchek, that in the review of the Administrative Fees appeal by Ms. Karina Goodrich for the property at 147 Henry Street, the Board of Public Service denies the appeal based on lack of documentation to support her claim that these fees were inappropriately applied.

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Tisenchek  
Commissioner Hayes  
**Noes:** Commissioner Friedman  
**Absent:** None

**MOTION CARRIED**

Code Enforcement Officer Chiappisi stated there was the question concerning whether or not he was to regulate this house as a rental property being that it was considered a family member with two boarders. He said if Ms. Goodrich lived there with two boarders he would still push to regulate this as a rental property and he believed that was actually always the Code Enforcement Office's position on this.

Chair Merzig stated the board's motion just answered that question and regulated it as a rental. She said she thought that was the position of Code Enforcement and Code Enforcement Officer Chiappisi correctly communicated that to Ms. Goodrich. She said she did not think Code Enforcement Officer Chiappisi erred in any way. She said she appreciated the patience Code Enforcement Officer Chiappisi had with Ms. Goodrich. She said Ms. Goodrich's letter was very strong but that did not mean the board was taking everything she said as such and the board was not supporting her.

Administrative Fees Appeal: (Tabled 11/1/12) 10-14 High Street – Alan Rubin

Chair Merzig stated at the last moment of the board's November meeting Mr. Alan Rubin presented an appeal for 10-14 High Street. She said she asked the Code Enforcement Office for a copy of the Administrative Fee invoice, which was received from Code and it was dated 11-2-11. She said this was not appealed for a whole year and the Code says an appeal must be made within 10 days. She said the board tabled the appeal and put the fees on hold. She said the board could say the board was denying the appeal and let the Finance Office figure out what to do with it.

**MOTION**, made by Commissioner Temming and seconded by Commissioner Tisenchek, the board removes the matter of the Administrative Fees appeal off the table that was presented by Mr. Alan Rubin for the property at 10-14 High Street, and declares the appeal invalid based on the failure of the property owner to act in a timely fashion.

**Voting Ayes:** Chair Merzig  
Commissioner Temming  
Commissioner Friedman  
Commissioner Tisenchek  
Commissioner Hayes  
**Noes:** None

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(Voting) continued

**Absent:** None

**MOTION CARRIED**

**CORRESPONDENCE**

The following Memorandum, dated November 28, 2012, was received from Code Inspector Hester:

**“SUBJECT:** December 6<sup>th</sup>, 2012 Meeting Items

**Updates:**

***13 Baker Street- (Margo Heck: 13 Baker Street, Oneonta 13820)- The Code Enforcement Office would like to inform the board on Ms. Heck’s progress in cleaning out the barn.***

**Administrative Fee Appeals:**

***39 Maple Street- (Ralph Tomeo: 55 Otis Road, East Patchogue, NY 11772)- Mr. Tomeo has submitted an administrative fee appeal for this property and the Code Enforcement Office would like to request a hearing for the board’s January 3, 2013 meeting.***

**Unsafe Buildings:**

***12 Division Street- (James Deandrea: 10 Division Street, Oneonta 13820) The Code Enforcement Office would like to request and unsafe building hearing to be scheduled for the Board’s January 3, 2013 meeting.***

***8 Cozy Avenue- (Michael Bollo: 4 Water Street Apt. 2A, Brooklyn NY 11201)- The Code Enforcement Office would like to request an unsafe building hearing for apartment #4 at this property for the Board’s January 3, 2013 meeting.”***

**NEW BUSINESS**

Code Enforcement Office requests the board to schedule the following hearings for the January 3, 2013 meeting:

1. Administrative Fees Appeal: 39 Maple Street – Ralph Tomeo
2. Unsafe Building Hearing: 12 Division Street – James Deandrea
3. Unsafe Building Hearing: Apartment #4 @ 8 Cozy Avenue – Michael Bollo

Code Inspector Hester stated the only reason 12 Division Street was declared unsafe was the lack of heat. He said there were 4 apartments and nobody was paying rent and nobody had been filling the oil tank but Mr. D’ Andrea filled it this time. He said he did not know if the oil would run out and the apartments would not have heat so he wanted to schedule the hearing for January.

Chair Merzig stated the property owner should be evicting the tenants if they were not paying rent.

Code Enforcement Officer Chiappisi stated 8 Cozy Avenue was an interesting case. He spoke briefly about issues including a heating problem between the neighbors, a water leak into a basement apartment fixture that was taken care of and tenant complaints. He said Code Enforcement gets several messages of complaints a week between 11pm and 2am that were very threatening. He said the apartment was unsafe and Code Inspector Hester posted it but at this point the owner has taken care of all that he had asked him to regarding the heating, water and electrical. He said he thinks the conditions that make the apartment unsafe were due to the woman who lives there who had issues. He said the owner was trying to evict her. He said he had spoken to Adult Protective Services, DSS,

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**(New Business)** continued

and the Oneonta Police and Fire Departments. He said what those agencies said was they could not do much until the tenant was evicted. He said the tenant knows the apartment was unsafe and Code Enforcement recommended she find alternative housing but she refuses to relocate. He said she had cats living there and there was stuff everywhere. He said he was completely at a loss as to what to do and had spoken with the City Attorney.

Commissioner Friedman asked if there was an eviction process in place.

Code Enforcement Officer Chiappisi replied yes.

Chair Merzig stated there was an impression that if the city joins in the judge was more likely to agree that it would be the best thing for the eviction to go through. She said in this case the issue was not the landlord but the tenant. She said this was somewhat like the matter with 12 Division Street.

The board held a brief discussion on the matter.

Code Inspector Hester spoke briefly about 39 Maple Street and said it was a situation where the house was in bad condition, unsafe, vacated months ago and administrative fees were accruing on the property for the last 2 years. He said the owner has returned from deployment but there was no definitive date of deployment or release date on his papers.

Chair Merzig stated there was a statute that protected active servicepersons and if that was in effect then the administrative fees were probably covered by that statute.

Code Enforcement Officer Chiappisi stated that as a rental the owner was required to have a local agent in his absence.

Commissioner Friedman stated he had a great deal of respect for people in the armed services but this man owned 9-11 Tilton for a long time and never took care of it and has never taken care of this property at 39 Maple even before he was in the armed services and was a policeman on Long Island. He said he did not think Mr. Tomeo had a local agent then either. He said he was entitled to hearing and the board should ask him for written documentation of his deployment and return.

Chair Merzig stated the board schedules the following hearings for the January 3, 2013 meeting and asked the Clerk to include in Mr. Tomeo's letter that he provide written documentation of his deployment and return:

Administrative Fees Appeal: 39 Maple Street – Ralph Tomeo

Unsafe Building Hearing: 12 Division Street – James Deandrea

Unsafe Building Hearing: Apartment #4 @ 8 Cozy Avenue – Michael Bollo

**APPROVAL OF MINUTES**

The board approved the minutes of the regular meeting held November 1, 2012 without benefit of a motion.

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 5:00 p.m.

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JAMES R. KOURY, City Clerk

JRK/pab