

ONEONTA, NEW YORK - OCTOBER 11, 2012 - 4:00 P.M.

REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 1

PRESENT: Chair Margery K. Merzig
Commissioner Louis Tisenchek
Commissioner Joseph Temming
Council Member Madolyn Palmer

ABSENT: Commissioner Peter Friedman
Commissioner David Hayes

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

PETITIONERS

The Chair indicated there were no petitioners for matters other than business listed on the agenda.

CORRESPONDENCE

The following Memorandum, dated September 26, 2012, was received from Code Inspector Hester:

“Updates:

37 Church Street (Thomas O’Toole Jr. 314 West Walnut Street, Long Beach, NY 11561)

This property was originally declared unsafe on 5/3/2012. At that time the Board ordered this building repaired or vacated and secured. The building was vacated and secured. After several inspections the owner has corrected all cited violations. The Code Enforcement Office would like the board to lift the unsafe declaration and dismiss the vacate order.

22 Duane Street- (James Gillette: 22 Duane Street, Oneonta, NY 13820)- The Code Enforcement Office would like to update the board on the condition of this building and would also like to request that the board order a licensed professional engineer or architect to submit a complete review of the building and if found uninhabitable, make a vacate order effective on the date of the submitted report.

Administrative Fee Appeals:

19 Duane Street - (Virginia Ellis: 19 Duane Street, Oneonta, NY 13820)- The Code Enforcement Office would like to request the following administrative fee appeal be heard at the board’s October meeting.

130 Chestnut Street (Alan Rubin: 138 Balford Drive Oneonta, NY 1382)- The Code Enforcement Office would like the board to hold an appeal hearing for this property on 10/11/12.

5 Frederick Street (David Freed: 83 Lower River Street Oneonta, NY 13820)- The Code Enforcement Office is requesting that this appeal be heard at the 10/11/12 meeting.”

APPROVAL OF MINUTES

The board approved the minutes of the regular meeting held September 6, 2012 without benefit of a motion.

OLD BUSINESS

1. Follow-up on fire safety/plan for cleanup: Margo Heck – 13 Baker Street
2. Follow-up on planned subdivision - City View Drive (288.19-1-42.01): Dmitriy Litvinenko & Marjorie Louissaint wish to subdivide and purchase a 4.78A parcel owned by Thomas Oliver to build a single family home with entryway by North Fifth Street. This requires review and approval by the board for the extension of the water and sewer lines to North Fifth Street as well as to look at the requirements for fire hydrants. (As of the September 6th meeting the board was awaiting cost of water/sewer line extensions and provisions for a fire hydrant)

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(Old Business) continued

1. Follow-up on fire safety/plan for cleanup: Margo Heck – 13 Baker Street

Chair Merzig recognized Mrs. Heck. She said that Ms. Heck and she had talked about the situation at Baker Street. She said the board members looked at the photographs provided by the Code Enforcement Office. She said the board knows Ms. Heck has made progress. She said the big concern at this point by the board was the addition on the back of 13 Baker Street and there was also trash again around the property. She said the board will give Ms. Heck 10 days to pick up the trash before the city does it and the board would like Ms. Heck to come in and meet with the Code Enforcement Office about the addition on the back of the house and give Code Enforcement Office a plan as to how she was going to either save it or take it down so that it was not open to the public.

Code Enforcement Officer Chiappisi stated under most circumstances demolitions in the city required a site plan review but if the Board of Public Service was to order it demolished it would eliminate that requirement for a site plan review. He said he technically could not sign a demolition permit without an order from the board.

Chair Merzig stated the board was not quite at that point with this property. She said that was where Code Enforcement was going to work with Ms. Heck and find out what her plans were for that property without too much more delay. She said if the board needs to order a demolition it will do it on Ms. Heck's behalf and that will avoid the required site plan review.

Code Enforcement Officer Chiappisi stated he recently received a call from New York State Electric and Gas (NYSEG) about a gas leak at this property. He said asked if that had been repaired by a licensed plumber.

Ms. Heck stated that the gas has been shut off.

Code Enforcement Officer Chiappisi asked if the house would be heated this winter.

Ms. Heck replied no.

Chair Merzig questioned if the city needed to shut the water off.

Ms. Heck stated that the city shut the water off 6 years ago and she was paying water rent on it all this time.

Chair Merzig stated she did not realize that.

Ms. Heck stated it was the same with her property at 15 Baker Street, the city shut the water off there and she was still paying water tax on it.

Chair Merzig stated she would look into that for Ms. Heck.

MOTION, made by Chair Merzig and seconded by Commissioner Tisenchek, that based on testimony heard on the property at 13 Baker Street the board gives Margo Heck 10 days to pick up the trash in the yard before the city does it and before the board's November 1st meeting the board would like Ms. Heck to go in and meet with the Code Enforcement Office about the addition on the back of the house and give Code Enforcement Office a plan as to how she was going to either save it or take it down so that it was not open to the public.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Tisenchek

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(Voting) continued

Noes: None
Absent: Commissioner Friedman
Commissioner Hayes

MOTION CARRIED

2. Follow-up on planned subdivision - City View Drive (288.19-1-42.01): Dmitriy Litvinenko & Marjorie Louissaint

Chair Merzig stated that the board has received a recommendation from city Engineering Department's Engineering Technician Greg Mattice to extend water service and sewer service. She said the Engineering Department was recommending option #1.

MOTION, made by Chair Merzig and seconded by Commissioner Temming, that based on the board's review and the recommendation of Option #1 by the Engineering Department of the subdivision request of the Oliver property from Dmitriy Litvinenko & Marjorie Louissaint, the Board of Public Service approves the extension of water and sewer service to this property located at North Fifth Street/City View Drive (288.19-1-42.01) at 50 percent paid by the city.

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

MOTION CARRIED

NEW BUSINESS

1. Administrative Fees Appeal: 19 Duane Street and 51-53 Valleyview Street – Virginia Ellis
2. Administrative Fees Appeal: 130 Chestnut Street – Alan Rubin
3. Administrative Fees Appeal: 5 Frederick Street – David Freed

Chair Merzig addressed the appeals of Administrative Fees as follows:

Code Inspector Schlafer distributed copies of Code Enforcement Office information packets on all the Administrative Fees Appeals scheduled to be heard at this October 11th meeting.

Administrative Fees Appeal: 19 Duane Street and 51-53 Valleyview Street – Virginia Ellis

The following letter was received from Virginia Ellis, 19½ Duane Street, Oneonta, dated September 18, 2012:

“Members of the Board,

I am addressing you all today due to a very serious matter at hand. At the end of last year I filed a chapter 13 with the courts because my properties at 51-53 Valleyview, 55-57 Valleyview, and 19 Duane Str. had all fallen into foreclosure. I am at present working 5 jobs to meet all the expenses however, the mortgage co. has once again filed to foreclose, on the Duane St. property, saying I am behind in payments due to an increase. It has been discovered, this increase is due to fines that were filed with the county by your office. The Duane St. property is not nor has it ever been a rental since I purchased it in 2006. Robert, from your office, had been to the property in August of 2011 and was made aware of this fact. Although he told me there was paperwork I should fill out, it was soon forgotten about due to a family tragedy that resulted in the loss of a close family member. It took us

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(Administrative Fees Appeal 19 Duane Street and 51-53 Valleyview Street) continued

a few weeks before we were able to begin to finish the project and get everything closed up before winter.

I am appealing the board asking that all fines be dropped on the 19 Duane St. property. I am also asking that the board drop the fines on the Valleyview properties due to the hardship situation and the fact I am always working to improve these properties. I am asking the board to refund Wells Fargo Home Mortgage the fees it collected on the Duane St. property, as they were fines that never should have been issued in the first place and your office was aware of this.

I understand the importance of turning in paperwork on time and am making an effort to improve in this area to avoid further problems. I enjoy working with your office, it helps me to be a better landlord.

Sincerely,"

Chair Merzig stated the board's assignment under Administrative Fees section of the Code was twofold, to determine whether the Code Enforcement Office erred in some way and fees were given incorrectly and/or to determine whether there was hardship. She said Ms. Ellis has asked the board to consider under both circumstances. She said it was her understanding that the 55-57 Valleyview property did not have any Administrative Fees on it at this time and there were no fees accruing on that. She said on 51-53 Valleyview Ms. Ellis was ordered to provide a housing inspection and smoke and heat detectors and alarm inspection.

Code Inspector Schlafer stated that Ms. Ellis did the housing inspection and smoke detector forms.

Chair Merzig stated that the board did have the date of when those were submitted.

Code Inspector Schlafer stated that the smoke detector form would have been submitted September 10, 2012.

Ms. Ellis stated she does stuff and did not know when she does them. She said she was trying to be a landlord and not a slumlord and had an agenda for her properties. She said sometimes Code Enforcement works with that and sometimes not. She said awhile back she had gotten a notification from former Code Enforcement Officer Friedman to paint her porch but the porch needed replacing. She said she was terrible at paperwork. She said the properties were in good repair but she was not good when it came to filling out paperwork.

Chair Merzig stated some of the paperwork Ms. Ellis could do herself and she recommended that Ms. Ellis go to the Code Enforcement Office immediately whenever she gets a letter and fill out the form at the office. She said that Administrative Fees were to ensure that properties were in compliance and some of those fees were for things Ms. Ellis could do herself by just going into the Code Enforcement Office. She said the board may or may not be able to help Ms. Ellis with all her properties. She said the key issue was that when Ms. Ellis gets something from the Code Enforcement Office to make an appointment and come right in because they would work with her to ensure that she was in compliance and did not mess up on paperwork.

Chair Merzig addressed the board saying that in this case one of the items that was outstanding was the same issue the board ran into with Mr. Rubin at the September meeting in that it says "schedule appointment and provide access for required housing inspection" but she was being fined for the "in lieu of statement," which she should be able to fill out. She said Ms. Ellis had to have a housing inspection but the in-lieu of statement was not mentioned, which was a form she needed to fill out but it appeared that she did but just not when she should have. She said in terms of the smoke detector form Ms. Ellis probably could have done but that was a more serious matter for the board and she was not sure that could be waived. She said it has been a long time since Ms. Ellis did the

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(Administrative Fees Appeal – 51-53 Valleyview Street) continued

smoke detector form and that was a problem for the board. She said in the case of 51-53 Valleyview Street the board could probably waive the in-lieu of statement and Ms. Ellis knows now that she was to come in and work with the Code Enforcement Office and not to let this happen again.

Ms. Ellis stated she would and that Robert and John in that office were excellent.

Commissioner Temming questioned if the smoke detector form was current and filled out.

Code Inspector Schlafer responded yes, at the beginning of September.

Chair Merzig stated 19 Duane Street was more of a problem and was leaving that to the end.

Chair Merzig stated that the board cannot forgive fees that have already been levied against the taxes. She said the Code states that one only had 10 days in which to appeal the fees. She said these were the current fees and that was all the board could address.

Chair Merzig asked the following standard questions in the Administrative Fees appeal process. She said the board had the final notice letter to Ms. Ellis and the proof of mailing. She said the board had the current Administrative Fee spreadsheet. She said the board did not have a copy of the relevant certificate with a date stamp but had the statement of the Code Enforcement Office that it was current and has stopped accruing.

Chair Merzig asked if there were code violations currently at this property.

Code Inspector Schlafer responded yes, it still needs a housing inspection but she was not being penalized yet for that.

Chair Merzig asked if Ms. Ellis was the owner of the property.

Ms. Ellis replied yes.

Chair Merzig asked if the property was currently occupied.

Ms. Ellis replied yes.

Chair Merzig asked if Ms. Ellis was in residence at this property.

Ms. Ellis replied no.

Chair Merzig questioned if Ms. Ellis was not stating that any action by the Code Enforcement Office led her to dispute these fees but rather just being overwhelmed. She said she thought it was determined that the lack of telling Ms. Ellis to get the in-lieu of statement in probably contributed to that confusion.

Ms. Ellis stated she was a confused person period. She said she was getting it but it was slow. She said a young lady who works in the Code Enforcement Office that was residing at her residence and she has been helping her a lot.

MOTION, made by Commissioner Temming and seconded by Commissioner Tisenchek, that in the review of the Administrative Fees appeal by Virginia Ellis for 51-53 Valleyview Street and upon hearing testimony from the Code Enforcement Office and property owner/petitioner, the Board of Public Service waives the fees for the In-lieu of statement.

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(Voting on the motion for 51-53 Valleyview Street) continued

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

MOTION CARRIED

Administrative Fees Appeal – 19 Duane Street

Chair Merzig stated included in the information packet from Code Enforcement Office was a Property Use Certification form received September 4, 2012 for 19 Duane Street. She said there were questions in Part III of that form where Ms. Ellis answered “no” to if this property was a rental property and that there were “2” dwelling units. She said Ms. Ellis was claiming that this property was incorrectly levied Administrative Fees because it was not a rental. She asked if Ms. Ellis was renting half of it since there were 2 dwelling units.

Ms. Ellis replied no. She said she moved her mom here from Edmeston because she was not able to take care of herself and she could not charge her rent.

Chair Merzig stated at the time Ms. Ellis bought the property she submitted the same form dated February 2007 that indicated “yes” it was a rental property and owner occupied.

Ms. Ellis stated it was but did not know why she did not change it and. She said she thought she answered something incorrectly.

Chair Merzig stated that was probably what Ms. Ellis did incorrectly and that was why she had been charged Administrative Fees. She said the board has been given the authority under the Administrative Fees section to consider owner/occupied property as not appropriate for Administrative Fees however in this case the city did not know about it because Ms. Ellis did not submit the certification form until recently saying it was not a rental. She said in this case she thought the board’s findings were that these fees were incorrectly assessed because it was not a rental.

MOTION, made by Commissioner Tisenchek and seconded by Commissioner Temming, that in the review of the Administrative Fees appeal by Virginia Ellis for 19 Duane Street and upon hearing testimony from the Code Enforcement Office and the property owner/petitioner, the Board of Public Service finds that said property was owner/occupied and met the inspection requirements within a timely therefore the fees be vacated.

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

MOTION CARRIED

Administrative Fees Appeal: 130 Chestnut Street – Alan Rubin

The following letter was received from Alan Rubin, dated June 19, 2012:

To: Board of Public Service

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(Administrative Fees Appeal – 130 Chestnut Street) continued

Subject: Appeal of fines/Penalties 130 Chestnut St.

Electrical Violations

This was created by a communication issue between electrical inspector Ed Hoag and Joe Rico electrician. Code office can verify the tension, and lack of communication between these two parties. Joe Rico is adamant that this house was cleared on the same date as the enclosed certificate for 128 Chestnut. This inspection as well as another inspection was received by code 2 years after the inspection was complete, and violations cleared. Ed Hoag is claiming that 130 Chestnut was not reinspected, but it was.

These properties are right next door to each other, and both the Initial inspection in June of 2009, and reinspection were done on the same day.

All the items were, and continue to be in order, and I was not aware of fees accrued until I received letter June 1st, 2012.

Thank you for your attention to this matter, and I expect we can come to a solution to this issue. Both of these parties are suggested and or licensed by the city of Oneonta to provide these services. I hope this feedback can help so that future issues of this nature can be avoided.”

Chair Merzig stated that this was based on electrical violations and smoke detectors.

Mr. Rubin stated that the appeal was just about electrical.

Chair Merzig questioned if she understood correctly that Mr. Rubin was having a disagreement with Ed Hoag.

Mr. Rubin responded he thought he was having a disagreement with Ed Hoag but he was actually realizing his problem was with the licensed electrician. He said the reason he supplied a copy of the certificate for 128 Chestnut Street was because on the last appeal that certificate was supplied to the Code Enforcement Office 2 years after the inspection took place and this was caused by a dispute between the electrician Joe Rico and the electrical inspector Ed Hoag. He said Joe Rico was adamant that 130 Chestnut as well was cleared of its violations. He said he was not sure if that was the case or not but could say that Joe Rico through numerous phone calls from when he made these appeals to only about a month ago stuck by that he was working with Ed Hoag to get him the certificate so it could be submitted. He said about a month ago Joe Rico dropped off the planet and could not be reached. He said as a matter of fact he had Ed Hoag perform the inspection again last week in which he went to Code Enforcement Officer Chiappisi directly and submitted a card. He said that was done because technically the electrician was supposed to sign off on the inspection but because Joe Rico was nowhere to be found. He said the card submitted was sufficient because he got the final bill. He said Ed Hoag was going to attend this board meeting on his behalf to explain the situation related to his relationship with Joe Rico and working with him with his properties but he smashed his hand with a hammer and was in the hospital. He said if it would be helpful to the board for him to come back for another meeting or if the board needed something in writing from him Ed would supply that. He said because Joe Rico was correct on 128 and on 91 he had to go with that instinct that it was cleared but when he realized he was coming up his appeal and could not reach Joe Rico his first call was to Ed Hoag. He said he did not blame the Code Enforcement Office or Ed Hoag but both the electrician and the electrical inspector were suggested and licensed by the city so in essence he felt there was warrant to appealing this violation.

Chair Merzig stated there was an inspection report dated June 19, 2009 in the paperwork saying that there were things that needed to be done. She suggested that the board table this because she thinks the board needed to find out when it was done and whether it was before the final notice letter.

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(Administrative Fees Appeal – 130 Chestnut Street) continued

Mr. Rubin stated that the re-inspection was just done by Ed Hoag of 128 and 91 Main Street because Ed's office did not send those until 2 years after. He said that was why he stood by Joe Rico but again he was caught in between the electrician and electrical inspector providing information to the city.

Chair Merzig stated if the board receives something from Ed Hoag saying it was done by the deadline would be fine.

Mr. Rubin asked Code Enforcement Officer Chiappisi if "done by the deadline" made sense to him because it was just done.

Chair Merzig stated the board would be stuck if it was just re-inspected, it needed some documentation that it was done by the deadline.

Mr. Rubin stated they talk about whether it was the err of the Code Enforcement Office and he said maybe it was not the Code Enforcement Office but certainly people that the Code Enforcement Office was suggesting which in essence puts some oneness of responsibility on the Code Enforcement Office. He said sitting here, working with the board, working to his property's their COs he thought there was a way that this made sense and that it could work out and the board could take a stab at it.

Code Enforcement Officer Chiappisi stated the city licenses electricians and Joe Rico was a licensed electrician in the City of Oneonta. He said in terms of the inspectors they were not licensed. He said he had received a list of inspectors and Ed Hoag has probably been on that list for a long time. He said he had removed people from that list of people who failed to do their job properly and Ed Hoag certainly did not come under that category. He said he added people to that list by checking their credentials, etc.

Chair Merzig stated she was trying to figure out how to not set a precedent here that would get the board into trouble because the only documentation the board had was 10-4-12. She said she was believing Mr. Rubin but she cannot figure out how to provide the documentation needed to show according to the hearing requirements that what Mr. Rubin said really happened. She said she needed some independent who was not involved in the fight. She said she was willing to accept Ed Hoag saying the work was done.

Mr. Rubin stated he thought that was a sufficient request.

Chair Merzig suggested that the board table this with the expectation that it would be able to do something for Mr. Rubin at the next meeting.

Mr. Rubin stated he appreciated that.

The board held a brief discussion on the matter.

Chair Merzig stated that the board tables the Administrative Fees Appeal by Alan Rubin for 130 Chestnut Street to the board's November meeting.

Administrative Fees Appeal: 5 Frederick Street – David Freed

The following letters were received from Mr. David Freed, 83 Lower River Street, Oneonta:

•*"To: Board of Public Service
Subject: Appeal of fines/Penalties 5 Frederick St.
Date: June 19, 2012
Electrical Violations*

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(Administrative Fees Appeal – 5 Frederick Street) continued

It is correct that this home has not been inspected or corrections made. The tenants of this home who have been removed since May 12th, 2012, referred by DSS simply destroyed the home. Myself, maintenance workers, electricians, plumbers were not allowed by tenants to gain access. A house where five people were suppose to be living encompassed fourteen people, and numerous vicious dogs, cats, and reptiles.

Not without every effort on my part, but they simply would not work with us, and even if they did the house was so cluttered it would have been near impossible to work in. This tenant left numerous animals in home, in fact OPD had to notify and ask us to gain access as animals were trapped in the house. They left the home as unsafe stickers were affixed on home (due to their negligence). They left home soaked in animal excrement, and 4300 pounds of garbage and disgust. The money in arrears was \$3200.00.

Home was infested by rats, and it is still vacant with an estimated \$65,000.00 worth of repairs required. This house will be a nice living space when complete, and will not have tenants until it is 100% compliant.

The above details the situation, and it is my hope we can come to a fair solution in regards to this matter.”

•“Date: October 11, 2012

Subject: Authorization of Alan Rubin regarding 5 Frederick Street

I David Freed authorize my 50 percent business partner Alan Rubin to handle matter related to 5 Frederick Street and represent me regarding Board of Public Service appeal.

Thank you for your anticipated cooperation in this matter.

Best regards,”

Mr. Rubin stated that he had tenants in there for 3 years and they would not let him in the house. He said the tenants had numerous and violent animals.

Code Enforcement Officer Chiappisi stated he had contractors come to him and say they would not go into that house.

Mr. Rubin stated that when the Police and Fire Departments came to remove a woman’s body from the house and because of the condition of the house they could not even navigate through the place. He said when he eventually had the tenants removed from the house he had a MOSA bill for 4200 lbs of material. He said even if he had been able to gain access he would not have been able to do an inspection because their garbage was piled on every receptacle and in every area. He said he had tried to evict them and when they left they left him with \$4000 in debt. He said he was starting on the house now. He said at the last meeting Commissioner Friedman said that the place had been vacant forever but that was not so, it has only been vacant for 5 months. He said he had garbage in the thousands that he had to pay and cannot argue them.

Chair Merzig stated the board has seen other situations like that with tenants. She said she did call the Police Department and they confirmed this.

Chair Merzig stated she would ask the standard questions. She said the board acknowledged that Mr. Rubin was the authorized representative for this property, that the property was vacant and that Mr. Rubin was not in residence at this property.

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(Administrative Fees Appeal – 5 Frederick Street) continued

Chair Merzig questioned what action by the Code Enforcement Office leading to these fees was Mr. Rubin disputing.

Mr. Rubin stated none, he was claiming hardship

Chair Merzig stated if extenuating circumstances were claimed what documentation did the appellant have to support the appeal. She said she thought the board had testimony of both the Police Department and Code Enforcement Office.

MOTION, made by Chair Merzig and seconded by Commissioner Temming, that in the review of the Administrative Fees appeal by Mr. David Freed/Mr. Alan Rubin for 5 Frederick Street, that based on the testimony from the Code Enforcement Office, the property owner/petitioner and the findings, the Board of Public Service grants the appeal and vacates the fees.

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

MOTION CARRIED

UPDATE FROM CODE ENFORCEMENT

Chair Merzig stated in the Memorandum from Code Inspector Hester under “Updates” he asked that the board act on 2 properties as follows.

37 Church Street

Chair Merzig stated Code Inspector Hester requested the board to lift the unsafe declaration and dismiss the vacate order for 37 Church Street because the owner had corrected all cited violations.

MOTION, made by Chair Merzig and seconded by Commissioner Temming, that based on Code Enforcement’s request and testimony, the Board of Public Service lifts the unsafe declaration and dismisses the vacate order for the property at 37 Church Street owned by Thomas O’Toole.

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

MOTION CARRIED

22 Duane Street

Chair Merzig stated Code Enforcement Office would update the board on the condition of the building at 22 Duane Street and request the board to order a licensed engineer or architect to submit a complete review and report of the building and if found inhabitable make a vacate order effective on the date of the submitted report.

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REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 11

(Code Updates – 22 Duane Street) continued

Code Enforcement Officer Chiappisi stated the board would recall that Code Enforcement was initially called to this property when Johnson Controls was having new water meters installed. He said there was a report of sewage in the basement and the original meter being removed from the property. He said when he went to investigate he found the meter outside that was cut out and bypassed and found a collapsed foundation wall. He said it was initially requested that the wall be fixed and when the contractor got down there to repair the wall, which he in fact did, he reported to him that the center of the building was coming down. He said that needed to be fixed and the contractor reported to him that the condition of the floor joist and the center holding beam could be moved by hand and was heavily dry-rotted. He said the middle of the building was sinking. He said at this point he did not know if the new water meter was installed. He said based upon the report by the contractor, who has not yet been paid by the owner for work completed, it says he did not feel the structure could be fixed. He said that was why Code Enforcement would like an engineer to look at to make a determination as to whether this could be repaired at this point in order to have people in the house. He said there were children in the house when Code Enforcement first went there several months ago and a lot of garbage and chickens. He said the garbage was still and the chickens were gone. He said the children were no longer living there but he was concerned because occasionally there were children staying there. He said that was a big concern if there were going to be children in the house then maybe the city just needed to vacate it before someone gets hurt.

Chair Merzig stated the problem she saw was that the Water Department should probably be notified because the pipes were going to freeze if the basement was exposed.

Code Enforcement Officer Chiappisi stated it was not exposed because the foundation wall was closed up.

The board held a brief discussion on the matter.

MOTION, made by Commissioner Tisenchek and seconded by Commissioner Temming, that based on the testimony and request by the Code Enforcement Office, the Board of Public Service orders the property at 22 Duane Street owned by James Gillette be vacated and that the building's condition be reviewed by a licensed engineer or architect and a report made to the Code Enforcement Office to determine when it could be reoccupied.

Voting Ayes: Chair Merzig
Commissioner Temming
Commissioner Tisenchek

Noes: None

Absent: Commissioner Friedman
Commissioner Hayes

MOTION CARRIED

Chair Merzig stated based on the motion made and approved on 37 Church Street Code Enforcement Officer Chiappisi has asked if the board would consider making a rule that whenever it lifts a vacate order or an unsafe notice that the owner of that property be present at the meeting the board acts on that. She said she had some mixed feelings about that because sometimes like in the case of 37 Church Street it was good to lift the order because actually it might make it possible for someone to purchase the property who would not do it with the unsafe on it. She said there were a number of absentee landlords and whether that would slow down their process. She asked that the board members consider whether they wanted to make a motion to have as part of the rules to require having the owner or authorized representative to be present to lift a vacate or unsafe order. She said that was not in the Code and the board was not required to do that.

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(Discussion on proposed vacate order rule) continued

Code Enforcement Officer Chiappisi expressed his concern and said in most instances where the board has done this in the past the owners had to come forward. He said in this particular case he had documentation from former Code Enforcement Officer asking this property owner to do things on his property that he never did. He said he tried to work with the property owner and he would tell him he was having the house sided and nothing had happened. He said the agent in this particular case was not very effective. He said he thought in this case for 37 Church it would have been good if Mr. O'Toole or the agent Ms. Keto came to stand before the board to account for themselves and the condition of this building and there was a public record made of how and what was said instead of everything being done by proxy. He said he had suggested to the Chair that the property owner should have had to write a formal letter to the board requesting that the unsafe be lifted.

Chair Merzig stated that letter would be a step forward and thought that would make the property owner have to provide more documentation on their own instead opposed to the Code Enforcement Office alone making that decision. She said the property owner would have to request that the board lift the vacate order.

Code Enforcement Officer Chiappisi stated once the conditions that made the property unsafe no longer exist he was required to lift the unsafe whether the property owner comes before the board or not. He said when an unsafe gets lifted it was not saying these properties were safe to live in but just saying that these conditions found on this property that made this unsafe were no longer there.

Commissioner Temming questioned if lifting the unsafe could be done in the Code Enforcement Office after requesting documentation that the work was done.

Code Enforcement Officer Chiappisi stated he was still researching the Code to see how that was worded because the City Manager asked him why the board has to lift the unsafe.

Chair Merzig stated she thought the board had to lift it.

The board held a brief discussion on the matter.

Chair Merzig suggested they wait another month and she would work up an outline to present for discussion on the matter.

6 North Seventh Street

Chair Merzig stated she had photographs of the property at 6 North Seventh Street. She said that was an unsafe property and the board had been asked by Code Enforcement Officer Chiappisi at the September meeting to order the trash cleaned up, which the board did. She said that order has not complied with the order and she would like the board to order the property owner to really clean it up or the city which was going to be a lot.

Code Enforcement Officer Chiappisi stated that the city had cleaned up about \$1500 of garbage a few weeks ago. She said the man who had lived there was a hoarder and now the son who was living there had pulled out 3 dumpsters of garbage and Code Enforcement pulled out 2 dumpsters the other week. He said this property has been a thorn in the neighbors' sides for years. He said the photos show the amount that was still left.

Chair Merzig gave a PowerPoint presentation showing the photographs of the property and the conditions and the trash.

Code Enforcement Officer Chiappisi stated that the owner died and the house was left to a local woman who he tried to contact and she knows by her relatives that he has issues with the property and that she needs to come to the Code Enforcement Office. He said the

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(6 North Seventh Street) continued

Chair Merzig stated Code Enforcement Officer Chiappisi would like the board to write a letter to the actual owner and order them to clean up the trash within 10 days or the city will go in and do it. She said this would be the second time this was done so it was not shocking to them.

MOTION, made by Chair Merzig and seconded by Commissioner Temming, that based on the testimony by the Code Enforcement Office the Board of Public Service orders that the property at 6 North Seventh Street be cleaned up within 10 days from receipt of the board's letter or the city would go in and do the clean-up at the expense of the owner plus 50 percent for administrative costs.

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

MOTION CARRIED

Voting followed this discussion.

Code Enforcement Officer Chiappisi stated the problem might be that the property owner transfer has not been done through the county yet and that ownership might still be in the name of the deceased, Orris Root. He said he knew that Rose Millias had title to it but the last time he looked on the county record Mr. Root's name was still on it.

Chair Merzig stated that the board sends notification that there were 10 days to clean up the property or the city would do it and the costs would be put on the estate which would go onto the taxes. She said somebody was paying the taxes.

Mr. Alan Rubin stated in regard to 128 Chestnut Street that he was before the board for a few months ago the board requested an engineer's report stating that the house met minimum safety requirements. He said in essence he did not argue about keeping the unsafe sign on the house until Code does an inspection to make sure all the type "A" violations were taken care of on the unsafe aspect but based on the engineer's report he does request that the vacate order be removed from the home at this time. He said he would have requested at the board's September meeting but the meeting ran away from them.

Chair Merzig stated that the engineer's report that was received indicated that there was work to be done and it made recommendations as to the work to be done. She said the board was waiting for that work to be done.

Mr. Rubin stated that the work that was done up to that point brought it to minimum safety requirements. He said the other work would be to bring it out of the unsafe zone. He said it being of minimum safety requirements that should remove the vacate order because he had tenants in the downstairs who were running on the coattails of these signs on the house and not paying rent because they were living in a house that has to be vacated. He said the tenants were taking advantage of the situation so at least if the vacate order comes off he could either demand the rent or go to court and file an eviction proceeding.

Chair Merzig stated Code Enforcement Officer Chiappisi and she had discussed this and they would like for Mr. Rubin to get a building permit and give Code Enforcement a plan. She said that was how that was usually done.

Mr. Rubin stated that the engineer's report was sent in and Code Inspector Hester had it.

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(Old Business – 128 Chestnut Street) continued

Chair Merzig stated since the board no longer had a quorum at this meeting it could not make any official decisions at this time. She asked Code Enforcement Officer Chiappisi what he thought.

Code Enforcement Officer Chiappisi stated that he would look into it and he would inform the board and then let Mr. Rubin know the decision.

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

JAMES R. KOURY, City Clerk

JRK/pab