

**ONEONTA, NEW YORK – MARCH 1, 2012 - 4:00 P.M.**

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

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

**ABSENT:** Commissioner Joseph Temming  
Commissioner Peter Friedman

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

**PETITIONERS**

There were no petitioners for matters other than what was listed on the agenda.

**CORRESPONDENCE**

The following Memorandum, dated February 23, 2012, was received from Code Inspector Hester:

*“SUBJECT: Topics for March 2012 Board meeting (Amended)*

**Unsafe Hearing Request:**

***30 Church Street (Frank Piazza)***

*The Code Enforcement Office would like to request that an unsafe building hearing be scheduled for this property at the Board’s April 5<sup>th</sup>, 2012 meeting.*

***6 High Street (William VanBuren)***

*The Code Enforcement Office would also request that the board tentatively schedule this property for an unsafe hearing for April 5<sup>th</sup>, 2012 based upon housing violations.*

**Administrative Fee Appeals:**

*27 Burnside Avenue (Darlene Cruz) - This office requests this administrative appeal be heard at the board’s March 1<sup>st</sup>, 2012 meeting.*

*9 Gardner Place (Edward Whaley) - The Code Office requests that this administrative appeal be heard at the March 1<sup>st</sup>, 2012 meeting.*

*19 Fonda Avenue (James DeAndrea) - The Code Enforcement Office would like to request an administrative appeal hearing for the Board’s April 5<sup>th</sup>, 2012 meeting.*

**Unsafe Building:**

*42 Cedar Street (Robert R. Duckett)- The Code Enforcement Office would like to request that the Board declare this property unsafe for reasons listed in an unsafe letter dated Jan. 23, 2012.*

**Updates:**

*62 Elm Street (Martin Tillapaugh)- The Code Enforcement Office would like to update the board on the continued work on this property.*

*34-36 London Avenue (Tanya Lindsay)- The Code Enforcement Office would like to update the board on the vacation of this property.”*

**NEW BUSINESS**

1. Unsafe Building Hearing: 42 Cedar Street – Robert Duckett
2. Administrative Fee Appeal: 27 Burnside Avenue – Darlene Cruz

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 2**

**(New Business)** continued

3. Administrative Fee Appeal: 9 Gardner Place – Edward Whaley
4. Request to schedule an Unsafe Building Hearing for the April 5, 2012 meeting on the following:
  - 1) 30 Church Street – Frank Piazza
  - 2) 6 High Street – William VanBuren
5. Request to schedule an Administrative Fee Appeal for the April 5, 2012 meeting for the following:
  - 1) 19 Fonda Avenue – James DeAndrea

**Administrative Fee Appeal: 27 Burnside Avenue – Darlene Cruz**

The following letter was received from Darlene and Steven Cruz, 27 Burnside Avenue, Oneonta, dated February 20, 2012:

*“Re: Property at 27 Burnside Avenue, Oneonta, NY  
Tax ID#300.09-3-25*

*To Whom It May Concern:*

*We are in receipt of Invoices #12-0115, #12-0116, #12-0117 and #12-0118 for administrative fees on the above noted property. We are appealing these charges.*

*My husband and I, along with our three children, have resided in this home for 4 years, however, we were living in the home as tenants to the previous owners, Jeffrey and Shannon Carreras of Maryland, NY. We paid rent on the property through June 30, 2011.*

*In April of 2011, we had written up a Quitclaim Deed, with the stipulation that we would only pay, on a pro-rated basis, the balance of property tax for 2011, once the property was transferred to us. The paperwork was not processed until August 25, 2011, as the previous owner advised us that they could not sell it because there were some “fines” against the property. In late August, after they sold another property in Oneonta, they advised us that the fines were taken care of and the paperwork was processed through both the City and the County.*

*It was not until September, 2011 that we received the Deed and official ownership information on the property. Unfortunately, it was shortly after that time we began to receive notices that there were monies due on the property. We are now in receipt of a foreclosure notice on our property, as the previous owners neglected to pay taxes since 2009, and we are now facing possible bankruptcy in an effort to keep our home.*

*We have learned an invaluable lesson about trust during this process and are currently fighting to keep the only home we have ever owned. We do not want to leave our home and have dreamed of restoring it and passing it down to our children. In what we have seen for rentals in the area, we believe that an Owner Occupied property is what the area needs more of. We would like to continue to be those people. We are humbly asking that you help us to do so.*

*Respectfully submitted,”*

Chair Merzig stated that the Cruz’ were tenants in the property and had a Quitclaim deed with the provision that they would pay the back taxes left by the previous owners Jeffrey and Sharon Carreras. She said while the Carreras were owners of the property there were fairly significant outstanding administrative fees. She said the Cruz’ really had no authority to act on the violations until they actually owned the property. She said the Cruz’s were asking for relief of the administrative fees. She said she thought the board had the concurrence of the Code Enforcement Office on this.

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 3**

**(New Business – Administrative Fee Appeal - 27 Burnside Avenue)** continued

Code Enforcement Officer Chiappisi stated that was correct and it was now a single-family house.

Mrs. Cruz stated as she wrote in her letter this was their first family home and have just owned it for several months. She said at this point in time it was a huge hardship for them to add these fees on top of others fees they had. She said she was asking the board to help them as much as it could so they could keep their home.

Commissioner Hayes questioned if the notices from Code Enforcement were sent to the Cruz'.

Mrs. Cruz stated they received the notices once the transfer had taken place sometime around October or November. She said they did not realize until then that there were significant fees assessed for violations prior to their owning the property.

Chair Merzig stated this was no longer a rental property and did not have the same compliance requirements however the board wanted the house to be safe.

Code Enforcement Officer Chiappisi stated that there was a significant history on this house and that document was available in his office for review by the new owners.

Mrs. Cruz stated they were very interested in anything that was lacking in this house.

Chair Merzig stated under the current City Code related to Administrative Fees the board was not the final authority on the matter. She said the board's decision would be recommended to the Finance/Administration Committee and then to the Common Council.

Chair Merzig asked for verification if Mrs. Cruz was the owner of the property.

Mrs. Cruz replied yes.

Code Enforcement Officer Chiappisi stated once his office gets notice of the property transfer it sends out a property use form where people could register the property as a rental or owner-occupied. He said in this particular case once his office received the form and learned it was owner-occupied all the fees were stopped. He said the total of the fees was quite significant.

Code Inspector Hester stated the fees totaled \$8,770.00.

Chair Merzig stated the extenuating circumstances were that the Cruz' did not own the property at the time the violations occurred and as soon as the Cruz' notified the city that the house was owner-occupied the charges were stopped.

**MOTION**, made by Commissioner Hayes and seconded by Commissioner Tisenchek, that in the review of the appeal of the administrative fees by Darlene and Steven Cruz for 27 Burnside Avenue, Tax Map #:300.09-3-25, that upon hearing the testimony from both the Code Enforcement Office and from the property owners/appellants, the board finds that the appellants successfully defended their appeal and waives the administrative fees on this property.

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

**MOTION CARRIED**

ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 4**

**OLD BUSINESS**

1. Administrative Fee Appeal: 53 Gilbert Street – Heath Stein
2. Follow-up on the status of the property: 62 Elm Street – Alpha Delta Omega

**Administrative Fee Appeal: 53 Gilbert Street – Heath Stein**

Chair Merzig moved to Old Business and addressed the item of the appeal for 53 Gilbert Street. She said that Mr. Heath Stein was not present. She said she thought based on the testimony at the February meeting and documentation the board had received the board could make a decision on this appeal. She said the board had received some additional information from Code Enforcement on what inspections and/or forms were outstanding and unfortunately it did not support Mr. Stein's appeal at all. She said that it appears Mr. Stein has neglected his property. She asked if Mr. Stein had submitted all the paperwork to Code Enforcement.

Code Inspector Hester replied no. He said Mr. Stein lacks a smoke detector form and the last Certificate of Compliance was still outdated. He said he did get in for a housing inspection.

Chair Merzig asked about the findings in terms of the housing inspection that was done.

Code Inspector Hester replied that it was not too bad. He said there were very few violations and two "A" violations.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, that in the review of the appeal of the administrative fees by Heath Stein for 53 Gilbert Street, Tax Map #:299.16-1-46, that upon hearing the testimony from both the Code Enforcement Office and the property owner/appellant, the board finds that the lack of documentation by the appellant defending the appeal causes the board to deny the appeal and uphold the fees.

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

**MOTION CARRIED**

**62 Elm Street – Alpha Delta Omega**

Chair Merzig stated she had spoken briefly with some of the fraternity members from 62 Elm Street prior to the start of the meeting. She asked Code Inspector Hester to give a brief update on the property and the additional information submitted.

Code Inspector Hester stated he had submitted an incident report from the Oneonta Fire Department and an Inspection Report. He said the last thing that happened was on February 28, 2012 as indicated in the report from the Oneonta Fire Department where apparently Hartwick College security, a State Police Trooper and the Oneonta Fire Department responded to a fire alarm. He said the auto dialer on the fire alarm panel dialed the Fire Department

Chair Merzig stated that the report said there was light smoke in first floor hallway.

Code Enforcement Officer Chiappisi stated he did not know if that was enough to trigger it. He said the alarm had been in a trouble mode and since November it keeps calling the Fire Department.

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 5**

**(Old Business – 62 Elm Street)** continued

Code Inspector Hester stated as indicated in the incident report the fire alarm was covered with a cup. He said he distributed an Inspection Report dated February 28<sup>th</sup>. He said at the time of the inspection he told the occupants this incident did not help. He said the house did look better than it had in probably five years.

Chair Merzig stated that this fraternity was in the process of applying for a Special Use Permit. She said she thought it would be best if this house went back to being a membership house because it was a membership house. She said having a Special Use Permit would require their requesting renewal every year by the city.

Chair Merzig stated that she was not leaning toward lifting the unsafe declaration but the board certainly could if the board and the Code Enforcement Office were in agreement that it would be legitimate since the fraternity corrected everything but one thing.

Commissioner Hayes stated he would like Code Inspector Hester's opinion on that.

Code Inspector Hester stated the fraternity was required to have two phone lines for the fire alarm panel and Verizon installed the new phone line but Fyr-Fyter had to hook it up to the fire alarm panel. He said when he was there on the 28<sup>th</sup> he told them they should get in touch with Fyr-Fyter immediately and tell them they needed it hooked up right away because of the false alarms and bringing the Fire Department and others in. He said the house looked better than in five years. He said he would feel the house was fairly safe. He said he was sure the fraternity will pull through and he was going to check up with them again. He said he talked to them about the plastic cup on the fire alarm and had said that it did not help the situation. He said the fraternity gave him pictures of what work they have done. He said he had before and after pictures of the bathroom

The board reviewed the pictures.

Code Enforcement Officer Chiappisi stated that if the fraternity gets recognized again he thought the Special Use Permit would have to be specially structured for this group.

Commissioner Tisenchek stated based on what the board was concerned about with this property he questioned if there was any harm in waiting to another meeting to discuss it and maybe lift the unsafe.

Chair Merzig stated she would agree and that was what she told the fraternity to expect.

**(New Business)**

**Unsafe Building Hearing: 42 Cedar Street – Robert Duckett**

Chair Merzig returned to New Business and opened the Unsafe Building Hearing for 42 Cedar Street owned by Robert Duckett of Brookfield, Ct.

Code Inspector Hester stated he received an e-mail from Mr. Duckett prior to the meeting saying he was unable to attend the meeting.

Chair Merzig questioned if Mr. Duckett had abandoned the house.

Code Inspector Schlafer stated he had spoken with Mr. Duckett on the phone. He said Mr. Duckett was planning on doing either a short-sell or let the property just go back to the bank.

Code Inspector Hester stated he had gone to the property recently and took pictures of the outside to show that the property was not secured. He said he did not go inside. He said there was a notice

ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 6**

**(New Business – Unsafe Building Hearing - 42 Cedar Street)**

on the front door that said “IFC, Inc. – This was found to be a vacant property. We work for the mortgage lender. It will be winterized within several days.” He said that was February 4<sup>th</sup>. He said the property was not secured, the water was off and the gas appeared to still be on. He said there was still junk hanging around the property and the two back doors were unsecured.

Chair Merzig stated she did not know what happened here because that used to be a very nice house and the Duckett’s used to take good care of things.

Chair Merzig stated she believed that based on the lack of security at the house, the broken windows and the ability to get into the house she thought the board needed to take some action.

Commissioner Hayes stated also because of the combustibles in the garage.

Chair Merzig reviewed with the board the sections under Chapter 92, Unsafe Buildings, of the Code of the City of Oneonta and what would apply to the conditions that exist at this property.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, that based on testimony heard from the Code Enforcement Office the Board of Public Service under Chapter 92, *Unsafe Buildings*, of the Code of the City of Oneonta, declares the property unsafe of Robert R. Duckett at 42 Cedar Street, Oneonta, NY under Section 92-1 sections E, I and J, as follows:

E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.

J. Those buildings existing in violation of any provision of Chapter 300, entitled "Zoning," and any other provisions of the Code of the City of Oneonta.

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

**Noes:** None

**Absent:** Commissioner Temming  
Commissioner Friedman

**MOTION CARRIED**

The board held a brief discussion on the remedy for consideration under Chapter 92.

**MOTION**, made by Chair Merzig and seconded by Commissioner Tisenchek, that based on the board’s determination at the March 1, 2012 meeting that the property located at 42 Cedar Street was unsafe the board orders the house secured by the Code Enforcement Office for the short-term and then give the property owner 120 days to sell the property or repair it.

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

**Noes:** None

**Absent:** Commissioner Temming  
Commissioner Friedman

**MOTION CARRIED**

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 7**

**(New Business – Unsafe Building Hearing - 42 Cedar Street)** continued

Chair Merzig recommended that the Code Enforcement secure the property in a way that suits the neighborhood.

Code Enforcement Officer Chiappisi stated that the plywood to cover the windows could be painted.

Chair Merzig stated considering the neighborhood she thought that would be appropriate to do that if he could.

Chair Merzig recognized Oneonta Town Councilman David Jones and asked if he would like to address the board.

Town Councilman Jones stated he was acting as Liaison of the Oneonta Town Board. He said the Town Board wanted to establish a procedure with the city to let the town know when town residents were having their water shut off. He said the town had come across a situation where a home was in the process of being condemned because nobody in the town knew the water had been shut off until recently. He said the neighbors had started complaining about things that were happening at the house. He said the town would like to be proactive.

Chair Merzig stated the city certainly should be notifying the town and she did not know why the city did not. She said there was also discussion prior to the meeting with the City Attorney and Councilman Jones and hopefully that was successful.

Town Councilman Jones stated yes and he gave him some suggestions about doing an informal agreement and just ask for the information directly from the Water Department or request the Board of Public Service to have it included in the Water Rules and Regulations that notification would be something that would occur automatically.

City Clerk Koury stated that the Water Rules and Regulations was no longer separate and was included in the City Code. He said an ordinance would be needed to change it.

Town Councilman Jones stated that he would discuss with the Town Board about doing an Inter-municipal Agreement.

Chair Merzig stated the city would be eager to do that because the city did not like to shut people's water off and from the City Attorney had said was if there was an Inter-municipal Agreement the town could put the water bill on the taxes on behalf of the city but the former County Treasurer did not like that and would not let that happen but he was going to discuss it with the new County Treasurer to see if something could be worked out. She said the Town Attorney could do the same.

**MOTION**, made by Chair Merzig and seconded by Commissioner Hayes, that the Board of Public Service asks the Common Council to amend the Water Rules and Regulations in the City Code to include notification to the Town of Oneonta that water was going to be shut off to a town residence.

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

**MOTION CARRIED**

Chair Merzig stated that was the recommendation unless there was an unsafe situation. She

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 8**

**(Discussion)** continued

suggested that the Town should put through a resolution that it notifies the City Water Department to shut the water off when there was a property it was planning to condemn.

**Administrative Fee Appeal: 9 Gardner Place – Edward Whaley**

Chair Merzig opened the appeal regarding 9 Gardner Place.

The following letter was received from Edward Whaley, 19 High Street, Oneonta, dated December 5, 2011:

*“Dear Sir/Madam:*

*I would like this letter to stand as an appeal for the fees/fines Mrs. Miriam Soto-Aponte (owner – 9 Gardner Place, Oneonta, NY 13820) has accrued due to required inspections being untimely completed.*

*I am Edward Whaley, proxy for the care/upkeep of 9 Gardner Place. I am also the primary care giver to Mrs. Soto-Aponte. For the past three years, Mrs. Soto-Aponte has been bedridden following a fall and a broken hip. My full attention has been focused on the care of my mom-in-law. About eighteen months ago we enlisted the services of the Otsego Hospice Society to assist me with her care. Recently, we have been prepared by Hospice regarding Mrs. Soto-Aponte’s end of life journey. Earthly preparations have been completed....*

*I have been busy with day-to-day issues involving her care and neglected to “take care of business.” I would like the Board to take into consideration the stresses and pressures I have been under; Mrs. Soto-Aponte’s medical conditions and failing health. I am scheduling the necessary inspections (furnace inspection done 12/9/11; finding and scheduling electric inspection as of 12/7/11; inspection scheduled for Smk. Det. and Housing. CofC and Prop. Use Forms (possible changes in use of house following demise of owner) will be completed prior to the scheduled House Inspection.*

*I wish to thank the Board for the time and consideration regarding my and Mrs. Soto-Aponte’s situation. I am “on point” with the obligations regarding the apartment building and I trust that the Board will work with Mrs. Soto-Aponte and me.*

*Sincerely,”*

Code Enforcement Officer Chiappisi stated that notices were sent to the property owner that inspections or forms were expired.

The board reviewed the summary for this property submitted by Code Enforcement on the forms and inspections that were expired.

Chair Merzig stated the summary indicates that the smoke detector form expired March 2010 and the electrical inspection expired October 2011.

Code Enforcement Officer Chiappisi stated the smoke detector forms were just 2 weeks shy of 2 years since receiving one. He said Code Enforcement was able to get in and due a partial housing inspection because the owner did not show up and the tenant let him in to one of the units but there was no access to the second unit. He said that was over a year ago now. He said the Certificate of Compliance expired October 2008. He said he knew the owner had been very ill and passed away in December but somebody had to take responsibility for the property. He said maintenance seems to be done. He said when he saw the notice in the newspaper of the owner’s death he stopped the fees and Mr. Whaley came in with the letter. He said he was waiting for inspections to be submitted since he was the primary caretaker for his mother-in-law but nothing has happened.



**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 9**

**(New Business – Administration Fee Appeal – 9 Gardner Place)** continued

Chair Merzig stated since there was no owner of the property she thought the question in this case was how did the city get somebody to take responsibility for this property. She asked if both apartments were occupied.

Code Enforcement Officer Chiappisi responded he believed so.

Chair Merzig stated Mr. Whaley was invited to the meeting and if Mr. Whaley had come to the meeting the board would have been able to discuss this matter with him and hear what the plans were for the property. She said under the circumstances it might be worthwhile for the board to begin an unsafe consideration and that at least would get somebody to take some notice of this. She said she had asked that the matter be placed on the agenda so Mr. Whaley would have an opportunity to discuss this. She said under the circumstances and with the concurrence of the Code Enforcement Office and since Mr. Whaley was not present recommended that the board consider it unsafe and Code Enforcement post the property as unsafe and have him attend the board's April meeting. She recommended that a letter be sent to Mr. Whaley saying his appeal was not considered because he did not attend the meeting and he is not the owner of the property.

**MOTION**, made by Chair Merzig and seconded by Commissioner Tisenchek, that the Board of Public Service directs the Code Enforcement Office to declare the property at 9 Gardner Place unsafe based on the testimony heard from the Code Enforcement Office, lack of current inspections and lack of ability for Code Enforcement to get into the house for a complete inspection. The board will consider the matter of unsafe at the April 5<sup>th</sup> meeting.

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

**MOTION CARRIED**

Chair Merzig scheduled the following as requested by the Code Enforcement Office:

Request to schedule an Unsafe Building Hearing for the April 5, 2012 meeting on the following:

- 1) 30 Church Street – Frank Piazza
- 2) 6 High Street – William VanBuren

Request to schedule an Administrative Fee Appeal for the April 5, 2012 meeting for the following:

- 1) 19 Fonda Avenue – James DeAndrea

Chair Merzig asked Code Inspector Hester to give a brief summary on those properties.

Code Inspector Hester stated that 30 Church Street had been a problem for quite sometime. He said Ordinance Inspector Ferris was the inspector on that property. He said more than likely the property had been over occupied for several years. He said he first declared it unsafe off of Ordinance Inspector Ferris' inspection in November and realized he needed to bring it to the attention of the board. He had been dealing with other Alan Rubin properties and Mr. Rubin actually manages this property for the owner who lives in Long Island.

Code Inspector Hester stated he had been dealing with the 6 High Street property for about 4½ years. He said there was a railing on a set of stairs that had been lying on the ground for 4½ and then the

**ONEONTA, NEW YORK - MARCH 1, 2012 - 4:00 P.M.**

**REGULAR MEETING OF THE BOARD OF PUBLIC SERVICE PG. 10**

**(New Business – Summary on requested scheduled properties from Code Inspector Hester)**  
continued

owner busted up the side stairs, replaced them with stairs that were not to code and left the debris in the yard. He said he had written the owner a letter saying now he did not have any safe egresses.

Chair Merzig questioned if Code Enforcement had the debris cleaned up.

Code Inspector Hester responded no because the owner actually removed it. He said then he received a call from Real Estate agent Dick Cavanagh saying the owner wants to sell the property. He said he forwarded Mr. Cavanagh the information about the pre-unsafe. He said he was just going to go ahead with the unsafe proceeding because it was in fairly bad shape the last time, which was June, that he saw it and the conditions on the inside.

**UPDATE FROM CODE ENFORCEMENT**

Code Inspector Hester stated in regard to Tanya Lindsay's property at 34-36 London Avenue that had the bed bug problem and the board issued a vacate order he said it appeared that both the tenants were out or at least one of them was sure. He said one tenant left some junk on the property and said she did not want it and he could not get in contact with the other tenant.

Code Enforcement Officer Chiappisi stated that the water and electric was off and the property was locked but one of the windows was not quite secure.

Chair Merzig stated she would feel good about the property being secured if it was vacated.

Commissioner Hayes stated drove by the 30 Church Street property recently and it was pretty rough.

Code Enforcement Officer Chiappisi stated his goal with that house and others like it that he had in mind was that once these groups of students were out was to shut them down and not open them again until they were completely brought up to code. He said 37 Church Street was another one that had correspondence from 2008 on it saying it would be fixed and it was not.

Commissioner Hayes stated the board would support him.

Chair Merzig stated she agreed and suggested that Code Enforcement post the properties as soon as possible.

Code Enforcement Officer Chiappisi stated Code Enforcement may want to think about getting them posted now because the owners may start to rent them and if the students saw unsafe signs they would leave.

**APPROVAL OF MINUTES**

The board approved the minutes of the regular meetings held January 5, 2012 and February 2, 2012 and the special meeting held January 12, 2012, as written, without benefit of a motion.

There being no further business to come before the board, Chair Merzig adjourned the regular meeting at approximately 4:50 p.m.

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JAMES R. KOURY, City Clerk

JRK/pab