



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final Legislative Hearings

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Tuesday, April 21, 2015

9:00 AM

Room 330 City Hall & Court House

9:00 a.m. Hearings

Special Tax Assessments

- 1 [RLH TA 15-118](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1502C1, Assessment No. 152005 at 578 POINT DOUGLAS ROAD SOUTH.

Sponsors: Lantry

*Approve and spread over 5 years. Need Metropolitan Gravel information and may reduce further. **NOTE: Public hearing on April 1, 2015 Public Hearing however TA file didn't make it to Council but Real Estate Office caught it and pulled the file.****

Annie Cherveney and Lynne Houle-Cherveney appeared.

Ms. Moermond:

- summary: demolition assessment of \$23,058*
- home was damaged by fire*
- you were thinking that maybe you could have done the demolition*
- she wanted to see the actual fire report, which was just handed to her; she will review the report*
- the report is quoting \$100,000 in damage*
- date of fire: Mar 10, 2014; unintentional electrical fire*
- ignition: started in common room/den; heat source electrical*
- first item ignited: furniture and utensils; fabric fiber-cotton*
- no human factors contributing to ignition*
- smoke detectors were working*
- remarks: reported flames coming from a private residence; upon arrival, fire crews found 2-story house fully engulfed with fire; a defensive fire strategy was chosen; the distance from the nearest fire hydrant was approximately 1000 feet; after establishing a water supply, crews were able to extinguish the fire; the house was a total loss; 3 of the house occupants were transported by St. Paul Fire Medic rigs to the hospital; the fire also damaged 3 vehicles parked in the driveway; Fire Inspector Kroger on scene for further investigation*
- they got the call at 3:58; arrived at the scene at 4:05; cleared the scene at 9:11*
- Fire Investigation Report: 2nd floor of the NE corner was in the process of collapsing when the fire investigator arrived*
- photos*
- wall surface had fallen away from the eastern portion of the south wall, which showed heavy char consistent with the matching area on the wall where the lowest*

area of the burn was identified

- the 1st and 2nd floors collapsed into the lower part of the 1st level of the basement
- furthermore, while the 2nd floor collapsed into the 1st, the 1st floor did not collapse into basement
- there's a lot about your conversation later, with the fire investigator
- she is focusing on the extent of damage to the structure and collapse, and thinking of what influence it would have had on the need for an immediate removal of the building as opposed to waiting and getting bids, etc. (trying to discover their reasoning)
- the Emergency Abatement Order was issued Mar 18, 2014 (nothing before that)

Ms. Lynne Cherveney:

- has had conversations with Vacant Building staff on site; she asked the inspector who tacked up the VB sign on the building how long they had to clean up; he replied, "Probably about May"
- had conversations with workers there about certain things that were torn up or torn down (when? why?); she gave her phone number but no one called her back with answers to her questions
- work hadn't commenced until the 31st
- on her mother's side, their family owns a construction company and they do a lot of this type of work; they remove hazardous material; but they were never allowed to express that on this registration form
- when they arrived at DSI, they were told that they would not be allowed to pay fill out the form or pay the VB fee; someone there said that the city was going to demo the property in 72 hours because of asbestos; she was told that samples were taken from the property that showed there was asbestos but she knew nothing of that prior; she hadn't gotten any information on that; she asked for the results of the tests and they said it would all be in the fire report; she called for weeks and weeks and week for the fire report; she didn't get it until months afterward
- she is not sure what they are being charged for exactly because, if it was such a hazard, why wasn't it done sooner than the 31st; from the 31st to the 11th, there was a big hole where the basement was with no fill, no caution tape, etc.

Ms. Moermond:

- asked what they were doing between Mar 18 and Mar 22 when you got this Order saying "Immediately deal with it?"

Ms. Lynne Cherveney:

- she was trying to find out exactly when someone would be out at the house- basically, freaking out because the Order said they would be here in 72 hours

Ms. Moermond:

- this Order says the violation is complete removal of remains or fire damaged house and associated environmental hazards; and then, specify a reasonable time for the city to correct the violation - 72 hours; so, the city would step in after 72 hours; estimated cost: \$15-\$25,000 (72 hours for you to get bids, talk to Mr. Yannarely)
- a person is given 72 hours or 15 days, whatever, to engage a contractor and pull a permit; after that, if they don't, the city commences engaging a contractor and pulling permits

Mr. Yannarely:

- someone would have had to come in and say that they hired a licensed and bonded contractor to take care of the violation
- typically, when there's a fire, they are given a VB fee waiver to deal with their insurance company and rebuild; in this case, the Fire Marshal and chief building official went out and determined that they needed to something immediately because

of the conditions; that's why the Emergency Abatement Order was issued

Ms. Annie Cherveney:

- the first letter they received from the city said they had 90 days

Mr. Yannarely:

- that's what happens in a typical fire as soon as the bell is rung but this ...

Ms. Lynne Cherveney:

- this is a form letter; don't know when to take things seriously; another letter was sent out: a Vacant Building Registration Fee Warning Letter- on Apr 11, asking us again to pay it

Ms. Moermond:

- she is having trouble connecting that to the Emergency Abatement Order

Ms. Lynne Cherveney:

- now that she's here, she understands that she had 72 hours to hire a contractor but she was clearly under the impression that they were not allowed to engage their own contractor; if that's all she had to do, she would have done it but this was confusing.... but.. it's an emergency now and you guys need to keep hands off ... is what she understood; she felt like they were being railroaded

Ms. Annie Cherveney:

- when they applied for the appeal, at first they accepted it; then, she got a phone call the following day saying that they denied it

Mr. Yannarely:

- the city uses the master contractor, Kamish, in Emergency Abatements; we don't bid it out; they have all the qualifications

Ms. Moermond:

- is surprised that the cost is only \$23,000 (Mr. Yannarely: part of that was because there was a problem with the well casing; they had to dig deeper; the cost ended up being \$3500); usually, an Emergency demo costs \$30,000+

Ms. Annie Cherveney:

- interjected that Kamish had known that there was a well on the property; they actually re-dug it up twice; at first they buried it; the well was actually open because it was inside the building (Mr. Yannarely: that's not what they told me; the contractor was having trouble with the well abandonment; the casing appeared to be cracked below grade, so they needed to excavate deeper and install a new casing before it could be grouted; that's what they told me)

Ms. Lynne Cherveney:

- they also dug the area where that was a sewer; that was dug up twice, also

Mr. Yannarely:

- it looks as though they were able to separate the asbestos, as least, in part

Ms. Moermond:

- is sorry that the Appellant doesn't have insurance to cover this loss

Ms. Annie Cherveney:

-interjected that because it was an emergency and they had 72 hours to clean it up, asking why the work was not commenced until the 31st

-they were told Kamish was going in to do the work and there was nothing they can do about it which was in the 72 hours

Ms. Moermond:

-why Kamish didn't progress it right away, she do know that there is a 10-day waiting period

-asking if someone wants to see testing results that would be the NPCA testing, that would be the place to go, correct

Mr. Yannarely:

-they determine whether it's an emergency and rather it's a contamination

-they are usually quick about this and somewhere along the line, they think they can get rid of this

-yes, Michael Reed with Ramsey County would be the person to start with

Ms. Moermond:

-she gets it that you want to do this, she is stuck with an emergency that a building needed to be removed and trying to figure out who is responsible for the cost of the removal and if there is any reason to decrease the cost with some of the reasons that you're articulating

-she looked at this emergency order and get that things didn't go down right away, don't know what was happening during that time period

-assuming that was the time Mr. Reed was working with the testing

-need confirmation on that

-comes down to say that it's not the responsibility of the tax owners to pay but for the tax payer's particular parcel

-what kind of bids you could have gotten, she don't know

-there was notification to take care of the issue

-she don't know who you talked to and what messages were given but can look at what is in writing and that is that she saw the 72 hours notice

-this is the time when the owner has to act

-asking for the name of the company the family would have used

-asking to see if they are a licensed contractor

Ms. Lynn Cherveney:

-Metropolitan Gravel

-there are certain things they wouldn't have done but the garage itself they would have

-that would just need to haul to landfill and would pull permit for it

Mr. Yannarely:

-they wouldn't be doing the absestos

-need to have licensed to handle this

-someone in Purchasing would handle the demo contractors list

Ms. Moermond:

-need papers on the record

-leaning towards approval of the assessment and divide over 5 years. When additional materials come in, she may decrease it.

-if they want to submit anything else, they may do so

Referred to the City Council due back on 5/20/2015

2 RLH TA 15-249

Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1507B, Assessment No. 158106 at 529 ARUNDEL STREET.

Sponsors: Thao

Roger Bielke, owner, appeared along with Fred Shusta, friend.

Inspector Joe Yannarely:

- *police ordered emergency boarding Jan 7, 2015 at 12:09 pm*
- *cost: \$271.95 (\$21.95 + \$250 emergency run) + \$160 service charge = \$431.95*
- *does not have the police report*

Ms. Moermond:

- *thinks that an emergency charge would apply only if it were 12:09 am rather than a pm (in the middle of the day you wouldn't have an emergency call up)*

Mr. Bielke:

- *it was the middle of the day at his house*
- *it started with him not feeling too good; he was out of breath, wheezing and tired; he called his Dr. office and spoke with a nurse; he told her his symptoms and she told him to go straight to the emergency room and have them take a look at you, which he did; that was about 10:30 am; the hospital admitted him right away; he told the Dr. and nurse that he had to get home because his medication is at home and he needed to make sure that everything was locked; he came back to the hospital about 6:30 pm and stayed over night; he was released about 2:30 the following day; they told him he had either acute bronchitis or pneumonia*
- *while he was at the hospital, a friend of his tried to call him at his house and got no answer so, she went over to the house and saw that his car was full of snow; she called SPPD to check on his welfare; they said to call the hospital first to see if he was there; so, she called Regions but he wasn't there; he was in United; they called United sometime the next day but his house had already been broken into by SPPD and that's why he's appealing the cost of RESPRO*
- *he has to replace the door*

Mr. Shusta:

- *summarized: he took Mr. Bielke to the hospital; then, a young lady came over and was worried about his welfare; she called SPPD because his car was out front and he hadn't answered the phone; they smashed in a panel on the side door*
- *he got a bill for \$431 - in his way of thinking, it seems excessive because the police are already on the payroll; their salaries are paid by our taxes; and there's an administrative fee of \$160, which also seems excessive*
- *they did call Regions but he was in United*
- *he should not be getting hooked for \$431 for a 2 x 2 sheet of plywood and a dozen screws; he could see \$100 or \$50 but not \$430; that's crazy!*

Ms. Moermond:

- *will get a copy of the police report to put into the record*
 - *will recommend deleting the emergency call out charge of \$250 right away; she doesn't know why that's on there*
 - *it's very likely she will delete further after she looks at the police report*
 - *will call you with her recommendation*
- Reduce from \$431.95 to \$181.95 but need police report.*

Referred to the City Council due back on 6/3/2015

3 [RLH TA 15-233](#)

Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 674 BURR STREET/492 BEAUMONT STREET.

Sponsors: Brendmoen

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 4 [RLH TA 15-240](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 1737 BUSH AVENUE.

Sponsors: Finney

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 5 [RLH TA 15-239](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 693 CASE AVENUE.

Sponsors: Bostrom

Delete the assessment per the recommendation of the legislative hearing officer. Extension had been given for the retaining wall, which is now complete, verified by building inspector.

Referred to the City Council due back on 6/3/2015

- 6 [RLH TA 15-244](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 123 COOK AVENUE WEST.

Sponsors: Brendmoen

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 7 [RLH TA 15-250](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1507B, Assessment No. 158106 at 43 ELIZABETH STREET EAST.

Sponsors: Thune

Reduce the assessment from \$431.95 to \$75.00. (Appellant failed to appear but an email was sent)

*Ms. Moermond:
-questioned whether this was a layover*

*Ms. Vang:
-no*

*Ms. Moermond:
-[reading email sent]
-questioned whether there was police report
-looks like this was already looked at*

Ms. Vang:
-email was sent awhile back
-waiting for the gold card to be sent back

Ms. Moermond:
-wondering what the officer would have communicated to the owner about the cost of boarding
-have had problems with this type of issues with officers providing inaccurate information in the past
-should decrease it
-talked to the commander for this area about this and other cases

Mr. Yannarely:
-owner(s) should know never to call Respro
-can hand Respro's card and they can contact them

Ms. Moermond:
-decrease to \$75

Referred to the City Council due back on 6/3/2015

- 8 [RLH TA 15-238](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 1033 HYACINTH AVENUE EAST.

Sponsors: Bostrom

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 9 [RLH TA 15-203](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1507, Assessment No. 158206 at 973 JESSAMINE AVENUE EAST.

Sponsors: Bostrom

David Theobald, owner, appeared.

Fire Inspector Leanna Shaff:
- Fire Certificate of Occupancy Inspection for a duplex cost: \$300 + \$155 service charge = \$455
- appointment letters were sent Aug 7; Orders sent Aug 22, 2014; was approved with deficiencies Sep 22, 2014
- billing dates: Oct 22 and Nov 21, 2014
- no returned mail
- sent to David and Abbey Theobald, 1091 Lawson Ave E, St. Paul

Mr. Theobald:
- appealing to contest the additional inspection fee of \$100; he understands and accepts the original \$200 Fire C of O fee
- have inconsistent inspections; items after the 2nd inspection were: 1) a retaining wall, which he appealed and got an extension to Jul 1, 2015 because it's a \$15,000 project; and 2) a section of wall removed in the basement because of water seepage (it's between a storage area and a common area so there's no significance to any fire stop, etc.; he used the exact method in 2012 for an inspection on the property at 836

Cook Ave by Inspector Wayne Spiering (there had been water damage from some basement flooding and he removed the bottom 6-8 inches of the paneling and left it like that; and the property was approved), hence, inconsistent inspections gives him a \$255 additional fee, which doesn't make sense to him

Ms. Moermond:

- we had an inspection Oct 22, 2014 (3rd inspection)
- checking the Orders

Ms. Shaff:

- there's no notation regarding the interior wall except for the Order

Mr. Theobald:

- only 2 items listed on the 2nd list of deficiencies: basement wall and retaining wall

Ms. Shaff:

- Oct 15, 2014 LH: Legislative Hearing Office granted an extension for the retaining wall until Jul 1, 2015; a huge job
- typically, in a hearing, if there's anything else, it's discussed at that time; otherwise, there's an expectation that things be done by the time of re-inspection

Ms. Moermond:

- the wetness in the basement happened after the hearing or before the hearing?

Mr. Theobald:

- before the hearing at the first inspection that was discussed
- the question is not whether it was completed; the question is "What is classified as done? According to the 2012 inspection, he completed this issue... .. (Ms. Moermond: .. and Wayne Spiering said it was taken care of; it was approved)
- 2 different inspections with 2 different opinions; same confused landlord
- it's an unfinished basement
- he asked Inspector Brian Schmidt what the reason was and he said, "Fire stop," which, in his opinion, is absurd..... want to see pictures? Directly above that wall is open cavity" (Photos were reviewed, discussed and scanned)
- the garage is detached

Ms. Moermond:

- thinks that it was a reasonable expectation that your previous fix would have sufficed in this circumstance; different inspectors look at things differently, of course
 - will recommend that the \$100 re-inspection fee is deleted along with the administrative service charge of \$155 for a total of \$200 C of O inspection fee
- Reduce from \$455 to \$200.

Referred to the City Council due back on 5/6/2015

10 RLH TA 15-245

Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1508, Assessment No. 158207 at 1134 JESSIE STREET.

Sponsors: Brendmoen

Mark Mancini, owner, appeared.

Fire Inspector Leanna Shaff:

- Fire Certificate of Occupancy inspection on a duplex
- cost: \$400 + \$155 service charge = \$555
- appointment letters: 8-5-14

- orders: 8-19, 9-12, 9-19 and 10-21-14; compliance 11-25-14
- billings: 11-27 and 12-19-14
- no returned mail
- sent to: Jamie S Mancini and Mark Mancini, 1413 Keller Lake Rd, Burnsville, MN

Ms. Moermond:

- there was a \$60 chg on the invoice for no entry; however, it doesn't appear in the assessments; assumes that it's because there can't be a chg for 'No entry" (Ms. Shaff: that's correct)

Mr. Mancini:

- appealing a portion of the assessment: the admin fee and one of the inspection fees
- started Aug 5 with a letter - complaint about the retaining wall near the driveway - a small 2-ft block wall was deteriorated; he was going to take care of that; and at the same time, he received another letter saying that they also wanted to do an inspection for the 2 units in the duplex
- it's Section 8 and had a C of O from 2011
- inspector came; he thinks he had the retaining wall fixed by then
- everything he called out was legitimate with 2 exceptions: 1) he wanted me to paint some of the wood on the front porch, which was treated wood but he wanted it painted anyway (it wasn't visible to the street); went along with that; and 2) cracks in the upstairs unit's ceiling, which, he felt were hairline cracks with no deterioration, which had been there as long as he owned it; in the inspector report, he wrote that it was water damage that caused the cracks but there's no evidence of any water stains, etc., it's just an old house; he tried to convince the inspector at the time that painting treated wood shouldn't be necessary and he didn't want to disrupt the tenants by having a crew go in to work on that ceiling that didn't appear, in his view, to need to be fixed
- has no evidence that Sep 12 inspection was ever scheduled; the "no entry"; it wasn't on his calendar
- Sep 19, we were scheduled to do the next inspection; he called Brian a couple weeks before that inspection and tried to appeal to the ceiling crack; he said that he couldn't remember and that he'd look at it when he came out again; all else had been completed
- Sep 19, the inspector insisted that he wanted the cracked ceiling fixed, which then caused the next inspection to occur on Nov 25, 2014
- he received the billing dated the 25th; he called Brian right away and asked if there was anything he could do about the excessive cost for the little inspection time that he spent; he thought the number of inspections was excessive; the requirements/request that he made were also excessive, given what he thought the inspection should entail; he said that he would look at it and get back to him
- he received the Final Notice Dec 29, 2014 saying that he still owed the \$460; he called Brian again on Jan 2, 2015 and left a message; did not hear back from him but gave it a couple more weeks; he called DSI and asked for the status, they said that it had been transferred to the tax assessor and more fees had been added; said that I'd receive a yellow card in the mail and should sent it back in for an appeal
- appealing the last inspection and also the admin fees (when he was trying to work something out with the inspector)
- his fault was not knowing the protocol or process for appeal before he got assessed the transfer fee

Ms. Moermond:

- between the 2nd to the last set of Orders and the last, what are the carry-over issues besides the ceiling and the porch? And are there photos?
- asked to look at the Orders

Mr. Mancini:

- he did provide the results of the Orsat test done on Aug 21, 2014 but the inspector said that he didn't have it in Sep, so he sent him an email with a copy of it again

Ms. Moermond:

- will recommend deleting 1 of those re-inspection fees and half of the admin fee; the fuel burning equipment test was also carried over - it hadn't been cleared up until after the 2nd to last inspection

Ms. Shaff:

- Aug 18, inspector notes: he received a copy of the smoke and carbon monoxide affidavit but he can't accept it because the smoke/CO detector isn't working (Ms.

Moermond: not in this set of Orders)

- Oct 21, inspector notes: the responsible party had wrong date in his schedule

Ms. Moermond:

- one document is the smoke/CO detector affidavit; the other document is the fuel burning equipment test (little bit bigger than the Orsat)

Mr. Mancini:

- at Brian's request, he emailed a copy of the fuel burning equipment test to Brian on Sep 23, 2014; the company that did the test faxed it to DSI on Aug 21, 2014

Ms. Shaff:

- Nov 25, inspector notes: have received a copy of the fuel burning safety test and it was within limits

Mr. Mancini:

- wishes he had brought a copy of that email because he emailed it to Brian on Sep 23, 2014

Ms. Moermond:

- send it to me and when I get that email, I will delete the rest of the admin fee/service chg

Reduce from \$555 to \$378 but may decrease further if owner can provide copy of the email to LHO regarding the fuel burning equipment test.

Referred to the City Council due back on 6/3/2015

11 RLH TA 15-246

Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1508, Assessment No. 158207 at 1605 LAFOND AVENUE.

Sponsors: Stark

Reduce from \$325 to \$250.

Referred to the City Council due back on 6/3/2015

12 [RLH TA 15-251](#)

Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 134 MARIA AVENUE.

Sponsors: Finney

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 13 [RLH TA 15-235](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1508, Assessment No. 158207 at 1952 MARYLAND AVENUE EAST.

Sponsors: Bostrom

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 14 [RLH TA 15-241](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 1718 MONTANA AVENUE EAST.

Sponsors: Bostrom

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 15 [RLH TA 15-242](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 1064 ROSE AVENUE EAST.

Sponsors: Bostrom

Neng Heur, owner, appeared.

Inspector Joe Yannarely:

- snow and ice letter issued Nov 13, 2014; compliance Nov 16; re-checked Nov 19, 2014
- Nov 21, 2014 - work crew went out but the work had been done by owner

Mr. Heur:

- he became the new owner Dec 14, 2014 of this Category 2 Vacant Building
- the rehabbing will be done May 15, 2015
- asking for this fee to be deleted; had to pay a lot of money to rehab
- the assessment was for the previous owner
- this assessment was not disclosed to him

Mr. Yannarely:

- all permits are pulled and active; work is going on
- before Dec 14, 2014, there were 8 Work Orders
- no Work Orders since Dec 14, 2014

Ms. Moermond:

- she'd like to give the house a fresh start
- there have been no problems with you being the owner
- there was just a few weeks between when the Order was issued and new ownership began; so, it would not have even shown up as a pending assessment at that time
- new owner is doing a good job

- will recommend this assessment be deleted
Delete the assessment.

Referred to the City Council due back on 6/3/2015

- 16 [RLH TA 15-229](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. VB1507, Assessment No. 158807 at 610 SAINT ALBANS STREET NORTH.

Sponsors: Thao

No show; approve the assessment.

Referred to the City Council due back on 5/20/2015

- 17 **RLH TA 15-254** Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No.158307 at 1261 SELBY AVENUE.

Sponsors: Thao

Rescheduled per owner's request.

Laid Over to the Legislative Hearings due back on 5/5/2015

- 18 [RLH TA 15-237](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1508, Assessment No. 158207 at 674 THOMAS AVENUE.

Sponsors: Thao

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 19 **RLH TA 15-255** Ratifying the Appealed Special Tax Assessment for Real Estate Project No. CRT1508, Assessment No. 158207 at 685 VAN BUREN AVENUE.

Sponsors: Thao

Les Lucht, owner, appeared.

Fire Inspector Leanna Shaff:

- Fire Certificate of Occupancy Inspection fee for a duplex

- cost: \$200 + \$155 = \$355

- appointment letters: 10-24 & 10-29-14

- orders dated: 11-10-14

- Mr. Lucht complied 11-24-14

- billings: 11-26 and 12-26-14

- no returned mail

- sent to Elizabeth Lucht and Leslie K Lucht, 1090 Cumberland St, St. Paul

Mr. Lucht:

- he is confused; he didn't get a bill; he got the Order that it would be assessed to his taxes but he never got the invoice

- his wife gave him this letter
- they had 2 inspections in the same year; they had to wait until spring to do the roof; then, that got cleared-up and he had another inspection right away; his wife said that the invoices didn't match up with the assessments; that's why she appealed this
- he was going thru the file and al it says is \$200; she said, it's for the first inspection

Ms. Shaff:

- the 1st inspection took a long time to get compliance; so, the next inspection was due before the first had actually been complied with; that was done by Inspector Martin but it was actually the C of O before that that went to assessment; Inspector Neis started the inspection; Inspector Martin took over
- we're talking about 2 different C of O inspections

Mr. Lucht:

- different assessment numbers

Ms. Moermond:

- that's not an assessment number; it's a reference number
- she's looking at the dates
- she is looking at the Nov 14, 2014 bill

Mr. Lucht:

- all he is saying is that he never got a bill for the 2nd inspection

Ms. Moermond:

- but I see it in your hand, the 3rd page - the bill for the C of O we are talking about today
 - the date of that bill is consistent with that assessment
 - the assessment number is not the same as the reference number
 - will recommend approval of this assessment
- Approve the assessment.

Referred to the City Council due back on 6/3/2015

- 20** [RLH TA 15-234](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. 158307 at 1181 WESTMINSTER STREET.

Sponsors: Brendmoen

Delete the assessment. Inspector went out one day early and commercial truck was removed end of November. (No hearing necessary)

Referred to the City Council due back on 6/3/2015

- 21** [RLH TA 15-178](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1505E, Assessment No. at 343 WINIFRED STREET EAST.

Sponsors: Thune

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

- 22** [RLH TA 15-232](#) Ratifying the Appealed Special Tax Assessment for Real Estate

Project No. CRT1508, Assessment No. 158207 at 25 WINTER STREET.

Sponsors: Thao

No show; approve the assessment.

Referred to the City Council due back on 6/3/2015

Special Tax Assessments - ROLLS

- 23 RLH AR 15-26** Ratifying Collection of Certificate of Occupancy fees billed November 18 to December 11, 2014. (File No. CRT1508, Assessment No. 158207)
- Sponsors: Stark
- Referred to the City Council due back on 6/3/2015**
- 24 RLH AR 15-27** Ratifying Boarding and/or Securing services during January 2015. (File No. J1507B, Assessment No. 158106)
- Sponsors: Stark
- Referred to the City Council due back on 6/3/2015**
- 25 RLH AR 15-28** Ratifying Excessive Use of Inspection or Abatement services billed November 12 to December 29, 2014. (File No. J1505E, Assessment No. 158307)
- Sponsors: Stark
- Referred to the City Council due back on 6/3/2015**
- 26 RLH AR 15-29** Ratifying Demolition services from December 2014. (File No. J1504C, Assessment No. 152003)
- Sponsors: Stark
- Referred to the City Council due back on 6/3/2015**
- 27 RLH AR 15-30** Ratifying Demolition services from December 2014. (File No. J1505C, Assessment No. 152004)
- Sponsors: Stark
- Referred to the City Council due back on 6/3/2015**

11:00 a.m. Hearings

Correction Orders

- 28** [RLH CO 15-7](#) Appeal of Brian Pierce to a Correction Notice, Summary Abatement

Order and Vehicle Abatement Order at 675 OAKDALE AVENUE.

Sponsors: Thune

Brian Pierce, owner, appeared.

Inspector John Peter Ross:

- *received complaint in late Sep 2014 re: commercial vehicles on property; perhaps commercial activity going on*
- *he inspected it Sep 24, 2014 and took pictures*
- *found a construction size dumpster-52,000 lb gross weight dumpster; wood scraps, concrete rubble, lawn mowers, pallets, brush pile, front end loader, case loader, pick-up truck and various items associated with a landscape business; one of the vehicles was marked commercially as a landscaping business*
- *sent a Summary Abatement Order Sep 30 with a compliance date of Oct 16 - removed items mentioned and mainly, cease landscaping occupation; he included some instructions in case he wanted to appeal to the Board of Zoning Appeals; also sent a letter which included that this property was located in an RM-2 Zoning District and during the inspection, he observed evidence of a landscaping business and ordered to immediately cease home occupation; this type of business does not meet the requirements allowed in an RM-2 Zoning District; RM-2 is a multiple-family residential district and is not intended for industrial, commercial use*
- *upon the compliance date of Oct 16, he spoke with Mr. Pierce; he came to DSI and wanted to know how this could be worked out; Mr. Ross spoke with some zoning people, who suggested possibly applying for a nonconforming use permit thru the Planning and Economic Department (PED) and Mr. Pierce was to contact PED re: a nonconforming use permit; he is working thru Paul Dubruiel and subsequently did get some information about what he needed to do*
- *Mr. Pierce would call him from time to time saying that he was in the process of collecting signatures; but at no time in that period, has anything been returned to PED re: the situation and a possible nonconforming use permit*
- *he decided to re-inspect in early 2015 spring, a more practical time to remove the extensive contents of the yard*
- *sent 3 letters on Mar 18, 2015; compliance date Apr 17, 2015: 1) updated SA, saying that all the conditions of the first abatement were still in order; reminded Mr. Pierce that he violated the zoning requirements; 2) sent a Vehicle SA on numerous vehicles, including commercial vehicles parked on an unapproved surface; and 3) Correction Notice on the house, which had defective siding, with eaves and soffits in a state of disrepair*
- *on or about Apr 17, 2015, an appeal was filed*
- *due to the on-going nature of this situation, he thought it best to get this before LH*
- *Apr 13, he went out to the property at the request of Mr. Pierce, who wanted to demonstrate the progress that had been made; took pictures; while he was there, Mr. Pierce's son, who was there at his father's request, told Mr. Ross to leave*
- *in his mind, there was not significant progress made; a landscaping business is still going on*
- *owner Brian Pierce does not live there; his son is living there, which means this property will be going into the Certificate of Occupancy Program as a non-owner occupied building*

Ms. Moermond:

- *wants to check names in relationship to the property: Eugene W. Burth, Suzanne Pierce and John Pierce*

Mr. Pierce:

- *Eugene W. Burth is his uncle and was the previous owner*
- *Mr. Pierce owns the building free and clear; he has owned it since 1989; he just*

never transferred the title

- it's an abstract and he has it
- there are back taxes of \$1600 due; when that's taken off, he can transfer the title
- Suzanne Pierce is his wife
- John Pierce is one of his 6 brothers
- went to DSI and asked Mr. Ross for a copy of the original report because their discussion, he got a little hot and then, apologized for it
- he is also in enforcement; he's been a building inspector for over 20 years; protocol is that you go knock on the door and announce yourself but that's not what the Mr. Ross does; he comes onto the property without announcing himself
- secondly, according to Mr. Ross, his original reason for coming out was that as his son was repairing the retaining and had parked the truck on top of the hill and everything has elevated since then; he gave me one Correction Notice one day and another the second day and that's what got him uptight; if it was an issue, why would it not be all on the first Notice? Why keep making trips out and sending more Corrections? To him, it was more like harassment at this point
- in the meantime, he's been working for a nonconforming use permit; he has 2 properties there; he has 2 boats on the property; so far, he has 7 signatures out of the 10 that he needs from his neighbors to apply for a nonconforming use permit; he is having trouble with the property across the street, that's owned by a New Jersey owner; he has called several times to their legal dept, and they think it's a joke that they need to sign something in order for him to operate a business on his property; they don't understand; it's also very difficult to get rental property owners to cooperate; it took him almost 2 months to get one rental property owner to sign; he has 14 possible people to sign
- he doesn't like the way Mr. Ross has handled this
- he talked with Mr. Ross last week and told him that he still was working on getting signatures and they were trying to clean up the property; he wanted to show Mr. Ross that they were moving forward; they wanted to show good faith
- Mr. Ross came out Mon after he said that he wouldn't go out but that Mr. Pierce could submit pictures; his son invited Mr. Ross up into the yard; he was excited to show him what they had done; Mr. Ross started to take pictures and at that point, his son asked Mr. Ross to leave; Mr. Ross stated, "Your dad isn't going to get his extension.....(Mr. Ross' lip was quivering).."; his son didn't know what was going on
- Mr. Ross has told him that now, he is in charge of the Highland Park area; so, he respectfully asks that a different inspector be assigned to his property- somebody that he can work with
- he introduced pictures; he will continue to work on the nonconforming use permit - needs an appropriate time frame
- according to city ordinance, he can have a home-based business; he falls within the guidelines for a home-based business; so, he can park his vehicles there; he can't be bringing people in and out; he can have only 1 person come and go out of the property - he meets that standard
- his wife lives in the house

Ms. Moermond:

- she is distinguishing a building inspector from a code enforcement inspector, who has a different kind of a job

Mr. Pierce:

- would like to have a copy or find out "what" the original complaint was because he doesn't understand, if all of these things were in the original complaint, why would Mr. Ross have to make multiple trips to the property? It's not making sense to him

Mr. Ross:

- he read what the complaint said when Mr. Pierce came down to DSI: "This house

looks like a junk yard. There's been a dump truck on the side of the house since the beginning of the summer; the house and yard are not kept at all; I can not see the address..." - Anonymous email

- as far as getting 2 Notices, one was sent to Occupant, one to Mr. Pierce; he sent to everyone who showed up in the county records

Mr. Pierce:

- in what Mr. Ross just read, there's nothing there about a home-based business; there's nothing there about running a business; there's an issue about things in the yard; that's all the complaint

Mr. Ross:

- what I read was the complaint; he is duty bound to investigate what I see on site; they probably don't know the Zoning laws; RM-2 is not appropriate for that type of use

- most of the pictures were taken from the adjacent property (there was a large German Shepherd on your property)

- he did not tell Mr. Pierce's son that Mr. Pierce would not get an extension; he was too busy looking at the crow bar he had in his hand

- as far as harassing you, he'd like nothing better than to have this case closed; he wishes you success in obtaining the nonconforming use permit, considering that this dates back to Sep 2014

- when you asked for an extension, it was passed the timeline for extensions but in order to settle this, he thought you should have your day in front of the hearing officer

Mr. Pierce:

- he will continue to work to get the last signature

- re parking area, how long does he have to put down a site-approved parking surface?

- would it be helpful to put up a 6-ft privacy fence

- the storage container (it's not a dumpster) is there for storage in lieu of a garage; he can't afford to put up a garage right now

- roof: was started before the market crashed; he had knee surgery that went bad and he doesn't have the physical ability to stand on ladders or climb like he used to; he's in a world of hurt; the roof is not an option; it needs to go on this summer; they started it and there were 7 layers on the house; he pulled a permit and they put the sleepers on the roof for the ventilation; he got it decked-in and water-tight and then, ran out of money; soffits need to be wrapped with aluminum, too, but he is limited in ability and looking at knee replacement

- he has a full-time job and works for his son, Andrew

- he needs to know what he needs to do to satisfy the city and still balance his financial issues

- siding: it's asphalt material that's been painted; even if the paint falls, it still protects the structure

- his photos were scanned

- the rubble file was removed this morning

- he doesn't agree with cleaning up the yard, the roof, soffit/fascia

- 2002, started the landscaping business to help with kids' education, etc.

- at some point, he wants to split the property and sell off a lot

- re the crow bar: Andrew told him that he had just reached for the crow bar from his truck as Mr. Ross approached

- he needs time to get squared away with Zoning, the parking surface, the roof, soffits, eaves and siding

- the wrap-around porch of the house will need to be ripped off and re-built

Ms. Moermond:

- the first Orders were issued in Sep with an Oct deadline

Mr. Ross:

- Sep 30 Orders was a SA to remove yard debris, container, loaders, etc. and immediately cease the landscape business
- there was no Vehicle Abatement at that time; he assumed the vehicles would be gone when the landscape business were to be discontinued
- there were no additional Orders thru the winter; he remained in contact with the owner and PED to see if anything had been submitted but there hadn't been
- Mr. Magner told him to give Mr. Pierce until spring 2015

Ms. Moermond:

- Zoning wise options: 1) seek a change in Zoning of the property; 2) seek a nonconforming use permit; although, she's not sure whether or not he would qualify to do that; and 3) get certified as a home occupation; she does not believe that he'd qualify but she is not the decision-maker on that

Mr. Pierce:

- he is working on signatures for the nonconforming use permit and has 9 signatures already (Option 2)

Ms. Moermond:

- she is looking at today, what has been a concern since Sep 2014 and there's not a completed application in; so, she has to deal with it as though there's going to be no change
- she won't treat it as a home-occupation or a re-zoned property; it's residential
- as residential, the cargo container has to go and all the heavy equipment has to go (commercial vehicles & an unapproved surface)
- looks as though you've dealt with the rubble and other materials
- the house needs to be fixed
- in order to add durable dustless surfacing for parking, you will need to file a site plan and show the plan reviewers where you want to put it; they will look at lot coverage proportion and some grading issues; they will indicate changes, if necessary
- exterior house issues' deadline: will grant an extension to Aug 1, 2015
- home occupation issue deadline: will give you time to get things moved to a new site until Zoning concerns can be cleared up-she will grant an extension to May 11, 2015

Mr. Pierce:

- asked what specifically needed to be moved from the site re home occupation issue?
- the white pick-up truck is his son's truck
- he has a boat there and a couple of trailers (are you saying that he can't have those?)

Ms. Moermond:

- the boat can stay there as long as it's parked on a durable, dustless surface is fine
- the pick-up truck is a pick-up truck
- the front end loader and dump truck are a commercial vehicles and need to go
- if it's a personal vehicle, like a pick-up truck or the boat - those can stay but need to be parked on a durable, dustless surface
- May 11 extension on all the other items
- City Council Public Hearing is May 6, 2015; they may look at it differently
- when you are approved for commercial use, you can re-organize the site as such; until then, you can't; that's up to you and the Zoning folks
- re a change in inspector, she has no control over that; contact DSI Director Ricardo

Cervantes; or Mr. Ross' manager, Steve Magner; or Human Resources

Mr. Ross:

- noted that he kept his older files that were still open when he transferred to the Highland Park area
- Mark Kaisersatt now has the West Side area
- added that he is not trying to harass anyone; when a complaint comes in, he is duty-bound to inspect it; if the complaint has merit, a file is opened; he has not stake in it one way or the other

Ms. Moermond:

Grant until May 11, 2015 for everything except for the eaves, soffit and roof which is granted until August 1, 2015.

Referred to the City Council due back on 5/6/2015

11:30 a.m. Hearings

Orders To Vacate, Condemnations and Revocations

- 29 [RLH VO 15-18](#) Appeal of Delores S. Caldwell to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 1867 MARYLAND AVENUE EAST.

Sponsors: Bostrom

Delores Caldwell, owner and Certificate of Occupancy contact, appeared.

Mai Vang:

- Richard Ernest Legato called this morning and said that he will not be able to attend this hearing; he sent a letter.

Fire Inspector Leanna Shaff:

- we were last here Jan 27, 2015; Ms. Caldwell was looking for more time to comply with the Orders
- Jan 27, LHO recommended that City Council grant until Apr 1, 2015 to complete the items on the list with the exception of the exterior painting of the house and garage; and the removal of the trailer onto an approved parking surface, which has a deadline of Jul 1, 2015
- Mar 25, 2015, Ms. Caldwell sent me an email saying that she would need to re-schedule the Apr 2 inspection because she needed to be out of town tending to her parents, etc.
- Mar 27, 2015, Ms. Shaff responded that City Council had chosen not to grant the request and the inspection would take place Apr 2
- Apr 2, 2015, Ms. Shaff went to inspect; Ms. Caldwell was not there; took photos; appears that not much was done on the exterior; she did not gain entry; she took enforcement action requiring the property to be vacated; the appeal was filed

Ms. Moermond:

- looking at items #3 and #6 of the Jul 1, 2015 deadline
- asked whether items ##1,2,4 & 5 appeared on the previous set of Orders; (Ms. Shaff: yes)

Ms. Caldwell

- looking for more time for her tenant to move

- she is not financially able to complete all of the repairs; she's been trying to keep the house out of foreclosure but mostly likely, it will go
- she had to be out of town; she had hired someone to do the major exterior safety items while she was gone but the person just didn't do it
- some of the other things that need repair are just beyond her financial capacity
- she was out of town when the Revocation was placed on the door; the tenant called her and told her about it; he was pretty upset; no way could he do it in 2 weeks; she told him that she would file the appeal; doesn't know how much time he will need
- the house is a duplex but there's only 1 person there

Ms. Shaff:

- the tenant is a disabled veteran, who said that he has a hard time getting around; he moves a little slowly; some back issues
- she encouraged him to go to the VA; she offered to give more resources in which he wasn't too interested
- he had talked about buying a house the last time we were here
- he will probably need help, like other agencies

Ms. Moermond:

- will recommend granting a vacate deadline extension to May 15, 2015, so that Ms. Shaff can re-inspect May 18, 2015
 - that should be a good, long length of time to find somewhere else and make moving arrangement
 - the VA has counselors who can help him with resources
 - City Council Public Hearing will be May 6, 2015
 - letters will be sent to both Ms. Caldwell and Mr. Legato letting him know the deadlines
 - if you want another outcome, go to the CCPH May 6
 - if the house doesn't come into compliance by the time it needs to be emptied, you would be referred to the Vacant Building Program as a Category 2; you can, then sell the house but the person buying it must be able to demonstrate that they had the finances to repair it
 - you can also appeal being in the VB Program
- Grant until May 15, 2015 for tenant to vacate the property.

Referred to the City Council due back on 5/6/2015

30 [RLH VO 15-19](#)

Appeal of Richard Ernest Legato to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 1867 MARYLAND AVENUE EAST.

Sponsors: Bostrom

Richard Ernest Legato called this morning and said that he will not be able to attend this hearing; he sent a letter.
Delores Caldwell, owner and Certificate of Occupancy contact, appeared.

Fire Inspector Leanna Shaff:

- we were last here Jan 27, 2015; Ms. Caldwell was looking for more time to comply with the Orders
- Jan 27, LHO recommended that City Council grant until Apr 1, 2015 to complete the items on the list with the exception of the exterior painting of the house and garage; and the removal of the trailer onto an approved parking surface, which has a deadline of Jul 1, 2015
- Mar 25, 2015, Ms. Caldwell sent me an email saying that she would need to re-schedule the Apr 2 inspection because she needed to be out of town tending to her parents, etc.

- Mar 27, 2015, Ms. Shaff responded that City Council had chosen not to grant the request and the inspection would take place Apr 2
- Apr 2, 2015, Ms. Shaff went to inspect; Ms. Caldwell was not there; took photos; appears that not much was done on the exterior; she did not gain entry; she took enforcement action requiring the property to be vacated; the appeal was filed

Ms. Moermond:

- looking at items #3 and #6 of the Jul 1, 2015 deadline
- asked whether items ##1,2,4 & 5 appeared on the previous set of Orders; (Ms. Shaff: yes)

Ms. Caldwell

- looking for more time for her tenant to move
- she is not financially able to complete all of the repairs; she's been trying to keep the house out of foreclosure but mostly likely, it will go
- she had to be out of town; she had hired someone to do the major exterior safety items while she was gone but the person just didn't do it
- some of the other things that need repair are just beyond her financial capacity
- she was out of town when the Revocation was placed on the door; the tenant called her and told her about it; he was pretty upset; no way could he do it in 2 weeks; she told him that she would file the appeal; doesn't know how much time he will need
- the house is a duplex but there's only 1 person there

Ms. Shaff:

- the tenant is a disabled veteran, who said that he has a hard time getting around; he moves a little slowly; some back issues
- she encouraged him to go to the VA; she offered to give more resources in which he wasn't too interested
- he had talked about buying a house the last time we were here
- he will probably need help, like other agencies

Ms. Moermond:

- will recommend granting a vacate deadline extension to May 15, 2015, so that Ms. Shaff can re-inspect May 18, 2015
- that should be a good, long length of time to find somewhere else and make moving arrangement
- the VA has counselors who can help him with resources
- City Council Public Hearing will be May 6, 2015
- letters will be sent to both Ms. Caldwell and Mr. Legatto letting him know the deadlines
- if you want another outcome, go to the CCPH May 6
- if the house doesn't come into compliance by the time it needs to be emptied, you would be referred to the Vacant Building Program as a Category 2; you can, then sell the house but the person buying it must be able to demonstrate that they had the finances to repair it
- you can also appeal being in the VB Program
- Grant until May 15, 2015 for appellant to vacate the property.

FOLLOW-UP: I heard from Maria Whetherall at VA Services. Legatto asked her to call, saying he needs more time, especially to store his tools. He plans on coming to the CCPH 5/6/15. -MM

Referred to the City Council due back on 5/6/2015

1:30 p.m. Hearings

Fire Certificates of Occupancy

- 31 [RLH FCO 15-50](#) Appeal of Choua Yang to a Fire Inspection Correction Notice at 1155 CASE AVENUE.

Sponsors: Bostrom

Choua Yang, Certificate of Occupancy Responsible Party, appeared.

Fire Inspector A. J. Neis:

- *Fire Certificate of Occupancy Correction Notice issued by Fire Inspector James Thomas*
- *appealed is the minimum floor area requirement (70 sq.ft.) for sleeping purposes for the upper bedrooms*
- *bedrooms are: 1) 60 sq.ft; and 2) 62 sq.ft.*
- *asking for a 10 sq.ft and an 8 sq.ft variance*

Ms. Moermond:

- *those are big variances*

Ms. Yang:

- *the 60 sq.ft. room is not being used for sleeping purposes*
- *it's the 62 sq.ft. room that she wants the variance for; they first had it inspection in 2009; at that time, it passed for sleeping purposes and the inspector told them to install a larger window, which they did do; and each inspection passed the bedroom until this year*
- *the bathroom is also located upstairs and she wants to be able to keep that one bedroom upstairs*

Mr. Neis:

- *looking at past records, what the Appellant has stated appears to be correct; was inspected in 2009 also by Inspector James Thomas; he wrote: MN State Fire Code 1026.1: provide and maintain an openable escape window for the sleeping room (code compliant); he made no mention of the rooms being too small at that time*
- *2013: Inspector Tonnancour inspected and there was no mention of the upstairs bedroom being too small at that time*
- *understands Appellant's question*
- *the window permit was finalized and approved by the building inspector*

Ms. Moermond:

- *will recommend a variance of 8 sq.ft. for the 62 sq.ft. bedroom*
- *you did comply with the escape window in 2009*
- *Grant an 8 sq ft variance for the SE bedroom; deny the NE side (60) sq ft room; it may not be used as a bedroom.*

Referred to the City Council due back on 5/6/2015

2:30 p.m. Hearings**Vacant Building Registrations**

- 32 [RLH VBR 15-28](#) Appeal of Charles Khang to a Vacant Building Registration Renewal Notice at 2051 SUBURBAN AVENUE.

Sponsors: Finney

Charles Khang, owner, appeared with an interpreter.

Inspector Matt Dornfeld, Vacant Buildings:

- opened a Category 2 Vacant Building file May 4, 2012
- Mr. Khang went thru a Sale Review and was approved Oct 30, 2013
- there's a current code compliant inspection report on file
- all permits have been finalized except for 2 warm air permits
- 2015-16 VB fee is coming due; he assumes that's why we are here today

Mr. Khang:

- the warm air inspection is scheduled for tomorrow at 1 or 2 pm; he is here to get an extension because he's not sure of the outcome of the warm air inspection
- the work is completed

Ms. Moermond:

- will allow some time to make sure that it's all done so that it doesn't need to get billed again
 - this will go to City Council Public Hearing May 20, 2015
 - if those permits are signed off by May 20, she will recommend deleting the VB fee
 - if permits are not signed off by May 20, she will let it go to assessment, which can be appealed and we can talk about it then
- Waive the vacant building fee until May 20, 2015 to get permit(s) signed-off.*

Referred to the City Council due back on 5/20/2015

3:00 p.m. Hearings

- 33** [RLH VO 15-21](#) Appeal of Victoria Morales to a Notice of Condemnation Unfit for Human Habitation and Order to Vacate Residential Units at 1659 GRAND AVENUE.

Sponsors: Tolbert

Eugene Sitzman, Principal & Manager, Grand Heritage Properties, LLC, owner, appeared.

Fred Kueppers, Attorney, representing Grand Heritage Properties LLC, owners, appeared.

Tamara Gray, owner, Daybreak Global Bookshop, appeared.

Earl Gray, Attorney, representing Tamara Gray, appeared.

Don Bachmeier, employee of Ms. Gray, appeared.

Kevin Naughton, Glensman Pub LLC, owner, appeared. (1659 & 1669)

Dominic McMahan, head of the project for Mr. Naughton, appeared.

Ms. Moermond:

- we are here to discuss where to go with the building now as decided after the first hearing Apr 17, 2015
- when we finished the conversation on Fri, Mr. Bachmeier asked if he could have an opportunity to put together some plans whereby the building could be fixed and occupancy continued; we can talk about those plans and options today; there will be rules that apply
- as of now, her recommendation is that the building be vacated until the Council's Public Hearing, when they can examine the situation on their own

Fire Inspector A. J. Neis:

- Notice of Condemnation/Unfit for Human Habitation and Order to Vacate
- reiterated his report of Fri Apr 17, 2015 (attached)
- complaint came in Apr 16, 2015; his immediate inspection Apr 16
- explained Condemnation and Revocation
- Condemnation: anything that constitutes eminent hazard to life-safety or health issues or would put anyone in a dangerous position or peril; can also include lack of basic facilities; fire separations; anything that would render the building unsafe for occupancy; Condemnation is separate, in their terminology, from Revocation of a Fire Certificate of Occupancy
- Revocation is reserved for buildings that are blanketed as completely noncompliant
- whenever there's a Condemnation Order on a building, the Certificate automatically is Revoked

Ms. Moermond:

- right now, she has an appealed in front of her that was filed by Victoria Morales, who is not here today
- at the previous hearing, she asked if anyone else would consider themselves an Appellant and there were several raised hands

Mr. Neis:

- their office does not take an immediate Vacate lightly; it is something due to extreme circumstances or extreme dangerous conditions, which in this case, the upper units were
- he requested an emergency hearing in regards to the occupancy because they needed an immediate vacate of those residential units
- it was determined at the Fri Apr 17 LH, that the Order to Vacate would remain in effect until the City Council's Public Hearing
- Fri night, Apr 17, he went to the property at approximately 8 pm and he was confronted by a white male with something like a ski pole as he drove around the building; he asked the man if anyone was still living in the building and he said, "Yep; and what are you going to do about it?" For Mr. Neis' safety, he drove away and parked a block away; he called SPPD to assist in the Vacation of the property
- at a little after 9 pm, SPPD arrived and they entered the building; it was obvious that no one had any intention of leaving; all units were still occupied; it was determined that they would vacate the property by what ever means necessary; they advised the occupants that they could no longer be living there; some moved voluntarily; they were not able to gain access to all units, so they waited around for an extended period of time; one of the occupants showed up and let them know that the building was cleared out
- they determined that the upstairs of the building needed to be boarded and secured from unlawful entry

Ms. Moermond:

- understood from a briefing that there had to be entry made into one of the units and that there was a phone call made to one of Mr. Sitzman's daughters, who allowed the unit(s) to be accessed

Mr. Neis:

- there was a lot of commotion within the building; a lot of knocking on doors by Mr. Neis and SPPD, trying to get people to come out to let them know what was going on; they thought that one unit had self-vacated but were unable to determine, so a phone call was made to Ms. Suzanne McLain, rather late in the evening to request permission to make entry into that unit; Ms. McLain indicated that it would be fine; he advised that they may need to compromise or breach the door; she gave verbal permission to Mr. Neis in front of the City Attorney, witnessed by SPPD to make entry into that unit; they forced entry and found that people were hiding in the back room

trying to avoid vacating the property

- once the building was fully vacated, one of the Council members came to the property and assisted in re-location of some of the occupants; once the situation had died down, he and Steve Magner, Code Enforcement Manager, made one final sweep of the building to ensure that no one was still left inside the building; the board-up was finished securing the property

Ms. Moermond:

- she spoke with Mr. Tolbert about this because he is on the Council and would be sitting in a quasi-judicial role; he indicated that he would be recusing himself from voting from this point forward

Inspector Matt Dornfeld, Vacant Buildings:

- per Condemnation Order by Fire Inspector Neis and per Mr. Magner's Orders, a Category 2 Vacant Building file was opened Apr 17, 2015
- pictures are posted; VB placards were attached to all sides of the building
- he was at the property yesterday, Mon, Apr 20, 2015 and was supposed to meet with a tenant from Unit #4, whose first name is Brian at 10 am; Brian did not show; he waited for an hour; some placards had been removed, which he replaced
- he documented that there's some scrap wood, overflowing dumpster and a trash can, metal venting, building materials and loose litter throughout the exterior of the property; a Summary Abatement Order was issued to have that cleaned-up
- he noted: the NE door was compromised and open to trespass (was included in the SA to be secured)
- Attorney Kueppers called him yesterday afternoon to inquire about the case; Mr. Dornfeld advised him of today's LH

Ms. Moermond:

- asked for comments from the attorneys, who were not present here before

Mr. Kueppers:

- Mr. Sitzman and his family have no objection about the upstairs; and in a sense, no objection about the downstairs being closed but they think that it may be unnecessarily unfair to the commercial tenants who have been operating there for some time
- it is their hope that arrangements can be made with Friday's concern that the downstairs commercial tenants can continue to occupy as they have been while the upstairs is sealed off until the Orders are met overtime
- is here to give that message to you and he would encourage the tenants to speak for themselves

Mr. Gray:

- he represents Tamara Gray and Daybreak International Bookstore
- entered photos of Daybreak and an article in the Oracle publication, Hamline College, about the Daybreak Bookstore
- Ms. Gray graduated from Macalester College; spent 20 years, after getting her Masters Degree from Temple, in Syria, running the educational system
- a few year back, she had to leave or lose everything, including her life; she came back here and has worked very hard to start a career; one of her careers is this bookstore; Daybreak is a charitable corporation and she sells books online
- like any business, especially a bookstore, it's very difficult to ever start again once you're closed down because there's a sign on the door saying the building is Condemned
- his client is of the Islamic religion; and they are seen going in and out of there; all of a sudden, there's a Condemnation sign on the building; he understands why it was put there but you also need to understand the position that she's in with people

talking about her and her people

- *his client would be very happy if the whole upstairs were shut down; he asks that the whole upstairs be shut down but that she, at least, be allowed to run her bookstore; there are no children sleeping over night there; if a fire began upstairs, it would take it, at least, an hour to get downstairs because of the ceiling; so, it would seem to him that a reasonable disposition for his tenant, Daybreak, would be to allow her to be open, at least, for 3 months; if after 3 months, the upstairs hasn't been complied with, Daybreak will vacate*
- *if 3 months extension were granted, he and Ms. Gray would be very gratified; Daybreak is her life and her vocation*

Mr. Naughton:

- *he echoes Mr. Gray because it's pretty much the signature of what Ms. Gray would like to do to continue her established business*
- *more importantly, if we define it from their end as a selfish pursuit, they are in the business of opening a business*
- *yesterday, he met with Larry Zangs, DSI, in a scheduled meeting, which had been scheduled last Thu at 2 pm; 2 hours later, he met with Inspector Neis*
- *what is new to him and possibly, to Ms. Gray, is the relationship that they have as commercial owners on the first floor and truly, a reprehensible collection of riff-raff upstairs, which is where the whole complaint started; and the events of last Fri evening, which again, are reprehensible; they would like to see that element completely out of the 2nd floor*
- *they understand that the building needs to come up to code; they would like some sort of compromise to address the residential units, which have been cited*
- *the Condemnation of the building is not in dispute right now; they are looking at moving forward*

Mr. Bachmeier:

- *he was asked to take a look at the building; however, it's boarded and secured; they couldn't get in; he had brought along several qualified trades people; they looked at the exterior to get a feel for it; it's a rather typical building to a seasoned veteran union electrician or plumber; they can make some good guesses as what it might take to modify some of the safety issues*
- *he is personally qualified, he thinks; he has built approximately, a million sq.ft. of industrial space and commercial/industrial space*
- *the people he talked to have advised him that they think they can cut the power and gas lines to the 2nd floor and alleviate these life-safety concerns that would create problems with the lower level units; they don't think it would be a terribly expensive proposition; it wouldn't take the residential units out of a Category 2*
- *he did go thru the building last Fri after the hearing and it was alarming; it was alarming to see a couple kids (toddler stage and infants) crawling around and where were some exposed nub and tube wiring -- something has to be done with that*
- *tends to agree with Inspector Neis' assessment that the commercial units below could function in a safe manner without putting people into life-safety situations*

Ms. Moermond:

- *Mr. Neis, you Condemned the residential upper level but you Revoked the entire building; explain that*

Mr. Neis:

- *as he explained when he was there on Thu Apr 16, speaking with Mr. Bachmeier, Ms. Gray and Mr. Naughton, the upstairs was undoubtedly Condemned and being immediately vacated but whenever a Condemnation occurs, that also Revokes the Certificate of Occupancy for the whole building; the Revocation comes into place when there's a Condemnation because the building isn't being maintained to a*

satisfactory condition (meeting minimum property standards); the Condemnation sometimes comes with consequences for other spaces that may not, necessarily, be condemnable

- he found no code violations in Daybreak; however, her space is blanketed by all the other code building code violations

- he advised Mr. Naughton to stop working on that property until we knew the outcome of the hearing; although, their spaces might not meet the definition of Condemnation, the Revocation was taking place; he advised them to appeal

Ms. Moermond:

- was struggling - are their ways to solve it so that there could be different deadlines put onto things - a Revocation for part of the building, not the entire building, etc.; she is not at all confident that any of that will work given Mr. Sitzman's history (multiple sets of Orders; a previous Revocation; 2 trips to court on Criminal Citations, things not being corrected); her faith that a partial Revocation would be helpful only seems to apply to continued rental income but she doesn't necessarily see that there would be any improvement to the building

Mr. Dornfeld:

- a letter to register this as a Vacant Building went out yesterday and is appealable

Ms. Moermond:

- yes, that's appealable; if it is a Registered VB, this building would need a complete full team inspection (code compliance inspection); it produces a report which contains a list of things that need to be done to bring the building up to minimum code compliance; if it goes that route, Mr. Sitzman would need to put together a plan to fix the building, pull permits and do all the work to bring the building back into compliance and ready for occupancy

- Mr. Sitzman could also hire someone to do that, like a project manager, who would act on his behalf; he could choose to sell it at that juncture

- the work would need to be based on the code compliance report and done under permits; then approved and finalized

- one building permit pulled; one electrical permit pulled; one plumbing permit pulled; one warm air permit pulled, etc. - would cover the entire property

Mr. Kueppers:

- he had that discussion with Mr. Dornfeld last Fri; he has seen a few of these over the years

- Mr. Sitzman and his family are aware of this, too; yes, it will be done to the full extent

Mr. Bachmeier:

- suggested that Mr. Sitzman write a check right here for \$10,000 and put it into Mr. Kueppers escrow account so that the issues that he has mentioned could be addressed and Ms. Gray could continue her business

- we can render the building safe; it alleviates Ms. Moermond's concerns that Mr. Sitzman won't perform

- his recommendation is a short term solution to protect Ms. Gray's business, primarily

Ms. Moermond:

- discussed last time: it is her opinion, that Mr. Sitzman should be out there working with Grand Avenue Business Association, Highland Business Association, whoever, to find an appropriate place for the bookstore; paying the deposit and the first 2 months rent - that, in her mind, is appropriate to the circumstances we find ourselves in; she doesn't think that it's appropriate to keep this 1 business open without having

confidence that the balance of the building is going to be dealt with coherently; nothing in the history of this building or Mr. Sitzman's actions tells her that the building will be maintained at all in the surrounding space; there are aspects of the rest of the building that impact Mr. Gray's ability to safely occupy her space; the building is not safe; the building is compromised

Mr. Gray:

- your decision is punishing a tenant, severely, because you say that Mr. Sitzman should do this and that for a tenant when he won't even do anything for the city of St. Paul after he is directed to do it; you are shutting down a viable business that she put all of her heart and money into and her business is ruined; Mr. Sitzman's not going to help her; why not give her a month or two; or 3 months so she has time to find another space and keep her business going

- if Mr. Bachmeier could find someone to make the space safe for under \$10,000, there would not need to be severe punishment of his client and it would also insure Mr. Sitzman get off his duff and do what he's supposed to do; punishing the tenant for what Mr. Sitzman has done or not done thru the years, doesn't seem fair; seems awfully arbitrary

Ms. Moermond:

- it's awfully tricky for the city in these circumstances because the city has very small tools and a big hammer; there's not a lot in between

- option: we have had situations with rehabilitations where there's been an Order to Abate a substantial nuisance condition where the city has allowed, even encouraged, a 3rd party administrator and a 3rd party financial manager to oversee the process in getting the building back onto its feet again; she hasn't seen evidence that Mr. Sitzman is going down that road; she needs to see some level of responsibility that she doesn't think she has right now; then, a concrete Work Plan could be put together and executed

Mr. Kueppers:

- Mr. Sitzman and the family are open to a plan like that

Mr. McMahan:

- he has been building and designing restaurants for bars and restaurants for 20 years; he has dealt with all codes

- he'd be willing to be the project leader for the upstairs; he also has the 2 spaces on either side of Ms. Gray's

- he's dealt with contractors and trades people; he knows general contractors who do this sort of thing

- as long as the funds are available, he'd be willing to take the project

Ms. Moermond:

- if Mr. Bachmeier wanted to do this project and Mr. McMahan wanted to come in, you would need active approval from Mr. Sitzman to enter the building and to undertake this work

- the other way that work could be undertaken would be with his OK and a third party administrator, again; then, there's a couple of court options, one of which is off the table; the tenants could have filed a Tenant Remedy Action in district court, which would have created a Court Order directing that some action be taken; otherwise, there's conservatorship, emergency conservatorships, court appointed administrators, etc.

- has a great deal of sympathy for Ms. Gray's store

- she knows that Mr. Sitzman didn't come through to help any of the people upstairs even for 1 night in a hotel when all this was going on; these people were just left in the middle of the night; Councilmember Tolbert paid the hotel bill for a night out of his

own pocket; Mr. Sitzman didn't help out the tenants upstairs, she doesn't think that he's going to help the commercial businesses either
- if someone can bring her a plan that gets this out of Ms. Sitzman's responsibility, she will look at it and consider it

Mr. Bachmeier:

- he can provide a plan

Mr. Kueppers:

- they are happy to work with Mr. Bachmeier and anyone else who can facilitate getting the job done while allowing the commercial operations to continue with the upstairs being shut down and fixing it up to code

Ms. Gray:

- asked when she would be able to get back in to access her business; they haven't been back in at all since the vacate to get their online packages
- the online business is a daily thing

Mr. Dornfeld:

- that would be conducting business; he can meet her there and grant access for the amount of time that's determined here today

Ms. Moermond:

- those packages need to be re-directed

Ms. Gray:

- she needs time to find a place and fix it so that she can go in and do her business; she needs at least a month if she finds a nice place; during that month, she needs to get her online packages; can we agree on her getting access 2-3 times a week; or she can get a place to put the merchandise; right now, she has 1,000 sq.ft.; doesn't need too much space
- her thought: she'd like to find a property with storage to put her stuff into while fixing the store front area; maybe that would take 10 days
- but the orders she gets online, she needs to access and mail out; we'd go in, get the books, package them and mail them out - maybe half an hour

Ms. Moermond:

- she's OK with Ms. Gray going in to retrieve things but she doesn't want her to go in and conduct businesses

Mr. Dornfeld:

- he won't be able to accommodate a schedule where he's going to unlock the door and then, come back a half hour later to re-lock the door; ultimately, it would be nice if they could agree to an amount of time where he could unlock the door, allow Ms. Gray to do what she needs to do and then go back at a certain date/time and lock the door again; assuming that there are no life-safety or criminal behavior issues in this space

Mr. Kueppers:

- he reviewed Mr. Neis' Notice of Condemnation and noticed that he was focusing on the upstairs; asked Mr. Neis if Ms. Moermond needed to have life-safety concerns about the use/occupancy of the commercial level, provided the upper level is effectively sealed off from use, even entry, at this time?
- suggested that Ms. Moermond consider allowing the commercial level to stay open
- is there such a thing as issuing a Certificate for 1 level of a building but not another level?

Mr. Neis:

- answer is twofold: 1) the primary focus on the Condemnation was based on the complaint-driven aspects of what was going on in the residential units; but as he noted, the Condemnation does affect the upper portion (immediate life-safety hazard); 2) it was hard to determine if there were any issues with the commercial Daybreak itself; it appears to be code compliant but it's hard to say what other aspects of the building may affect or compromise Ms. Gray's space; from what he saw at the inspection, that space appears to be code compliant; he did advise the commercial people that the Condemnation has consequences for other parts of the building because a Condemnation results in Revoking the Certificate of Occupancy

Mr. Kueppers:

- does the city allow a partial Certificate of Occupancy? If so, can they make application for one?
- he understands that the building was ruled to be compliant in Dec 2014

Mr. Neis:

- yes, there are circumstances where that would exist; typically, they are situations reversed from this situation in which the downstairs space is "for lease" - looking for a tenant, unoccupied and not code compliant and the upstairs is occupied; another example is new construction where part of the building is completed but the other section is not
- however, the concern here is that the building is in a state of dilapidation with one small section that's currently compliant
- however, the Revocation plays out is not his decision; he can only present the facts
- there is no application for a "partial" Certificate of Occupancy; typically, they are granted in terms of a variance or an exception that's made because of certain circumstance and that is not his decision; if this were a new construction project, then there would be put in place to separate the construction from the occupied areas

Mr. Gray:

- if it's possible to have a partial C of O, he'd ask for a partial for Daybreak
- it seem insane to punish Daybreak for Mr. Sitzman's conduct; it's not the American way of doing things

Ms. Moermond:

- the building is not the people; she needs to determine if that building is less safe because of the circumstances around it and she would say, "Yes;" Mr. Neis did Revoke the C of O for the entire building; she doesn't see reason to go back and Revoke the C of O for part of the building, in this case
- she just doesn't have faith... at all
- either the building is safe or it isn't safe

Mr. Gray:

- could you just give her a couple months?
- apparently, a fire would not come from above and she doesn't stay overnight there and there's no children in there
- Mr. Neis said that if there'd be a fire upstairs, it would be at least an hour because of the ceiling and the separation

Mr. Neis:

- we can't predict fire behavior; there's no guarantee
- a 1-hour fire separation is what's required by code; and it appears that it's in tact from the 2nd to the 1st floor

Ms. Moermond:

- the electrical upstairs is a nightmare (Mr. Bachmeier: it can be circumvented within 1/2 day; he thinks that there's confusion between the reality of the safety and the process/procedure; Mr. Dornfeld has a set of rules that he has to go by; he has 963 buildings on the VB list and he has to answer to everyone of these people; it seems to him that these circumstances are such that maybe, we can figure out a way to manipulate the process as opposed to safety (doesn't think we have to compromise safety); the categorization of this building as a Vacant Building seems to be what's hamstringing everybody; he thinks that Inspector Neis believes that the building can be rendered safe from Ms. Gray's perspective but he's caught in this tangle of procedures and regulations

Mr. Neis:

*- from his visual inspection, the fire separation appears to be intact but a Condemnation results in the Revocation of the Fire C of O of the whole building
- whenever any building is compromised, whether it's alterations, rehabilitation, even a simple home remodel and things are exposed, it always puts the building in a greater sense of danger*

Mr. Naughton:

- there has been nothing done structurally on contiguous walls in their business either to the west of Daybreak or to the east or below in the basement (Ms. Moermond: with the exception of putting a lock on the egress door in the basement which is illegal)

Mr. McMahan:

- if all the utilities are cut to the 2nd floor, what is the risk to the first floor?

Ms. Moermond:

*- that would be an accommodation that would need to be done thru this process
- the normal course of events would be to Revoke for the entire building; it's never to Revoke for part of the building; this is what we do with buildings in this circumstance and there have been several significant cases lately where we've had exactly this kind of thing*

Mr. Kueppers:

- Mr. Sitzman would forego rent downstairs in order to accommodate the situation for about 3 months, which would give the tenants downstairs to stay and do what they're doing under their leases

RECESS was taken at 4:15 pm

RECONVENED at 4:27 pm

Ms. Moermond:

*- thinks that Mr. Neis has made his information clear on the fire separation between the first and second levels; she wants to have another set of professional eyes look at Ms. Gray's space and how it relates to the rest of the building, and to what extent she can carve out conditions that address her circumstances
- she just called to see if she could get more professional advice; she will go out there tomorrow with the building official, Steve Ubl, to have a look at the situation and get his professional assessment so that she can operate with some sound information; just for Ms. Gray's space because it's the occupied space right now
- the larger question is where do we go from here with this building in getting it repaired to a place where it can be occupied again; that will be discussed as part of the Vacant Building registration conversation
- she does not have a change in her recommendation about whether the building*

should be Condemned and Ordered Vacated or even Revoked; this is about whether it can be occupied for a limited length of time in specific circumstances

- we have Ms. Gray's number; we can call you and let you know; you do not have to be there

- once that's done, she can come up with a decision that's better crafted

Deny the appeal; the condemnation was effective immediately on April 17, 2015; a decision is forthcoming regarding the Daybreak Book Store.

After Ms. Moermond and Building Official Stephen Ubl's inspection of the property on April 22, 2015, Ms. Moermond recommended that the bookstore be allowed to operate its internet business until May 8, 2015. If the gas is cut for the entire building, and electric is cut to all but the bookstore, they may continue to operate the internet portion of their business at this location through June 1, 2015.

Referred to the City Council due back on 5/6/2015