



# City of Saint Paul

15 West Kellogg Blvd.  
Saint Paul, MN 55102

## Minutes - Final

### Legislative Hearings

**Marcia Moermond, Legislative Hearing Officer**  
**Mai Vang, Hearing Coordinator**  
**Joanna Zimny, Executive Assistant**  
**legislativehearings@ci.stpaul.mn.us**  
**651-266-8585**

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Tuesday, December 10, 2019

9:00 AM

Room 330 City Hall & Court House

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#### 9:00 a.m. Hearings

##### Remove/Repair Orders

- 1 RLH RR 19-34** Ordering the rehabilitation or razing and removal of the structures at 985 WOODBRIDGE STREET within fifteen (15) days after the January 8, 2020, City Council Public Hearing.

**Sponsors:** Brendmoen

*Need work plan based on code compliance, proof of financing, proof of power of attorney and maintain the property. Refer to LH January 14, 2020.*

*Mark Schwartz appeared on behalf of Bill Bernier, his liaison with City of St. Paul*

*Schwartz: I have a power of attorney on file with Safety and Inspections. I'm doing my best to convey to him to urgency of this matter.*

*Moermond: are you in property management?*

*Schwartz: I run sober houses for a living, so we have a mutually beneficial agreement, he owns four sober houses.*

*Moermond: so he owns four sober houses, and you manage them, but that's not the same thing as being the representative of the property like being the Fire C of O representative.*

*Schwartz: That's how I got involved.*

*Moermond: Alright, I will put some background on the record here. We're talking about an order to remove or repair this building, I need to come up with a recommendation to the Council on whether time should be granted for its rehabilitation if that's what Mr. Bernier is looking for, or whether it should be demolished because there isn't the conditions met for it to be rehabilitated. Can we confirm that he isn't coming today?*

*Schwartz: I thought he couldn't come legally.*

*Moermond: the restraining order doesn't stop him from coming to this hearing and having due process of law.*

*Schwartz: I'll let him know that, that is helpful.*

*Staff report by Supervisor Steve Magner: The building is a two-story, wood frame, single-family dwelling, with a detached, two-stall garage, on a lot of 8,276 square feet. According to our files, it has been a vacant building since February 5, 2014 due to a fire. The current property owner is William J. Bernier per AMANDA and Ramsey County Property records. On February 12, 2019, an inspection of the building was conducted, a list of deficiencies which constitute a nuisance condition was developed and photographs were taken. An order to abate a nuisance building was posted on September 26, 2019 with a compliance date of October 26, 2019. As of this date, the property remains in a condition which comprises a nuisance as defined by the legislative code. Taxation has placed an estimated market value of \$16,300 on the land and \$10,600 on the building. Real estate taxes are current. The Vacant Building registration fees were paid by assessment on March 6, 2019. An application for a Code Compliance Inspection was made on November 12, 2019; however, an inspection has not been completed. The \$5,000 performance deposit was posted on November 12, 2019. There have been fifteen summary abatement notices since 2014. There have been five work orders issued for: Garbage/rubbish, Boarding/Securing, Grass/weeds, Snow/ice. Code Enforcement Officers estimate the cost to repair this structure exceeds \$75,000. The estimated cost to demolish exceeds \$20,000. DSI, Division of Code Enforcement Resolution submitted for consideration orders the property owner to repair or remove this structure within fifteen (15) days; if not the resolution authorizes the Division of Code Enforcement to demolish and assess the costs to the property.*

*Moermond: you attached to the record the Fire Report from Jan 2014, and it looks like there was a fire in the basement that the tenant found and there was about \$100,000 worth of damage. That was January 27, 2014, almost 6 years ago. Mr. Schwartz, what is Mr. Bernier's plans for the property?*

*Schwartz: He understands the urgency now, he wants to fix it and rent it. Inspector Bruhn has been talking to him about cleaning it out, there is a plan if you give him some time. He does want to get it fixed. As to his mental capacity, if there's time frame that need to be met, I will make sure it is done to the best of my ability.*

*Moermond: there's been an application for a code compliance inspection, but it hasn't been done yet. How long is it taking for that to be done?*

*Nathan Bruhn: it is typically two to four weeks, and that's the time frame it is currently taking place.*

*Moermond: so, if its an application made November 12, and we're sitting here December 10, it should be partially done.*

*Schwartz: I think the issue right now is trash within the structure.*

*Moermond: so no junk out yet?*

*Schwartz: it will happen this weekend*

*Magner: looks like electrical was there. If the other inspectors go and aren't able to do the inspection, they will just walk back out. The language says the dwelling must be broom clean for us to do the inspection. We won't move anything to do the inspection. Its not only the time to go there and do the physical inspection, there's also the time to*

*do the inspection. We don't have time to be stepping over couches.*

*Moermond: he did post the performance deposit, that's good. Fifteen summary abatement notices, has this improved?*

*Supervisor Joe Yannarelli: the last one was September 12, 2019 for tall grass and an excessive consumption fine.*

*Moermond: ok, so that's not great. I'm assuming someone's out there shoveling, but it concerns me when I see a history of abatement orders. I very much look at if its continuing to be a nuisance in the neighborhood once it reaches me, it is a sign of good faith that you're taking care of the property. For a fire that's this extensive, the permits are going to be pulled are almost the same regardless, because the house is more or less gutted. The category 3 designation says its dangerous and/or nuisance structure and DSI wants the Council to take action. We have the performance deposit, you're going to junk it this weekend, then we need a work plan and sworn construction statement. If you come back with bids for \$100,000, I want to see proof of that financing and funding dedicated to the project. If the money is in a personal or business account, we need an affidavit saying this amount is spent for this purpose and to segregate those dollars until its addressed. This goes to Council January 8, have you had contractors look at this?*

*Schwartz: no, but we've been in touch. We're waiting for the report.*

*Moermond: Because the performance deposit has been posted, as long as the code compliance inspection is conducted, we'll send this to Legislative Hearing January 14. He may want to have his general contractor come, we will be looking for documents from them, he can come and represent his own interests.*

*Magner: if the contractor hasn't been there yet, he can't put any timelines on, but Mr. Bernier has to come up with some sort of financial plan, the only other thing is asking for the Power of Attorney, if you're going to continue representing him for everyone's sake if you could provide a copy of that.*

*Moermond: get it in as soon as possible, and if there are any questions I'll talk to the City Attorney, we want to make sure all our ducks in a row, we may ask for a new one.*

*Schwartz: Mr. Lucht is on this letter, and he isn't involved in this anymore.*

*Magner: Les Lucht at one time made representation to DSI that he was representing Mr. Bernier.*

*Moermond: we'd like something from Mr. Bernier saying that isn't the case anymore.*

**Referred to the City Council due back on 1/8/2020**

## **Making Finding**

- 2 RLH RR 19-35** Making finding on the appealed nuisance abatement ordered for 412 GOODRICH AVENUE in Council File RLH RR 17-19.

**Sponsors:** Noecker

*Recommend continuing performance deposit and granting 180 days to finish*

rehabilitation because more than 50% of the project is completed and updated scope of work approved.

Carol Carey appeared  
Christine Boulware, HPC, appeared

Moermond: a grant of time was given to rehab the property, the council voted June 19, 2019 to give that time, at the 6 month mark we review cases to see if the 50% benchmark is met and we can continue the performance deposit. Mr. Bruhn has said its 60% complete, so we just need an updated scope of work on the record and we'll ask the Council to continue this another 180 days. Do you have any comments on that?

Carey: no

Moermond: Ms. Boulware, do you have anything?

Boulware: no, I'm just here to hear the update.

**Referred to the City Council due back on 1/8/2020**

**3**      [RLH RR 19-20](#)

Making finding on the appealed nuisance abatement ordered for 1143 WOODBRIDGE STREET in Council File RLH RR 19-12.

**Sponsors:**      Brendmoen

*Additional \$5,000 performance deposit must be posted with DSI and new work plan or sworn construction statement must be submitted by close of business of December 17, 2019 to recommend granting an additional 180 days to complete.*

No one appeared

Moermond: we're at the 6-month mark and trying to make a finding about whether the 6 month benchmark has been met. There's been a lot of communication on this in the last week, I expected to see someone here after all the phone calls.

Supervisor Joe Yannarely: I'm surprised they aren't here today, they seemed overly concerned about it.

Moermond: so what percentage is complete for this property?

Inspector Bruhn: I could put at 50%, but I don't think work has been started. The issue that I'm seeing the work that has been done has been done without permits.

Moermond: so we can't count it as being done really. Have you talked to the contractor about the error of their ways?

Bruhn: yes. There seem to be a lot of confusion on the part of the contractor and owner. That's my interpretation.

Yannarely: he was indicating he was going to be done by December 20, which is ridiculous.

Bruhn: there is a plumbing permit sitting on the inspector's desk, but we were waiting to see how today went.

*Moermond: the Council voted June 5, so we are past the 6 month mark.*

*Yannarely: he did pull an electrical and building permit in September.*

*Bruhn: based on the communication with the owner, the mechanical was done under bank ownership without a permit so I can't prove it was done.*

*Moermond: I don't want to slow up their work, so I'd like to put this in front of Council as fast as possible, they don't meet for two weeks in a row. I'll put this in front of Council next week, we'll rush staff to do that. If the 50% mark hasn't been met, an additional \$5,000 performance deposit must be posted, and a revised work plan or sworn construction statement must be submitted on how it can be finished in the next 180 days by close of business on December 17. If those two things don't happen then I recommend they have their attorney at Council on the 18th. For the record on Woodbridge, the attorney represented he reached out to Bruhn and couldn't get ahold of him, but there's more to that.*

*Bruhn: I called back and left voicemails, and I saw the email and contacted him and spoke with him after I met with the contractor at the property.*

*Moermond: so you did connect, but haven't been inside yet.*

*Bruhn: I was inside.*

*Moermond: but because the work hadn't been permitted you couldn't cross the 50% line.*

*Bruhn: yes*

**Referred to the City Council due back on 12/18/2019**

## 11:30 a.m. Hearings

### Orders To Vacate, Condemnations and Revocations

- 4      [RLH VO 19-50](#)      Appeal of Jon Taylor to a Fire Certificate of Occupancy Deficiency List, including Condemnation, at 1333 RANDOLPH AVENUE

**Sponsors:**      Tolbert

*Layover to LH December 17, 2019*

**Laid Over to the Legislative Hearings due back on 12/17/2019**

- 5      [RLH VO 19-49](#)      Appeal of Carrie Nelson to a Correction Notice - Re-Inspection Complaint, including Condemnation, at 291 STINSON STREET.

**Sponsors:**      Thao

*Grant a 30 day extension for items 1, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, and 24. Grant a 90 day extension for items 17, 19, 20, and 25. Grant a 180 day extension for items 2, 4, 5, 6, and 18. Grant the appeal on the condemnation.*

*Carrie Nelson, occupant, appeared*  
*Elliot Saddleblanket, occupant, appeared*

*Moermond: the permit is still active, is the furnace installed and complete?*

*Nelson: its complete as of yesterday.*

*Mai Vang: not finaled yet.*

*Moermond: ok, so they are probably calling for an inspection today. Talk to me about your thoughts on completing the items from the October 30 orders.*

*Nelson: I would like 90 days for the interior items, and spring for exterior including painting and stair repair and the retaining wall.*

*Moermond: I'd like to look at if there are things that can be reasonably pulled off to minimize risk now, I'd like to do that. 1, back stairway.*

*Nelson: that's done, cleared out.*

*Moermond: large hole in front steps outside?*

*Nelson: that I was asking for spring. Its cement, its not crumbling, its towards the bottom step.*

*Moermond: that doesn't look like a safety concern, that's fine. Address numbers?*

*Nelson: that's done. Same with the garage, it has a couple sections, we have the siding, but we have to put a ladder up to reach it and its slick back there.*

*Moermond: that's fine to wait 6 months.*

*Nelson: number 5 and 6 are painting, a couple windows where its peeling and then the porch, so spring. It also says the retaining wall, there's a big hole and the neighbor girls picked the rocks out.*

*Moermond: ok, so we have that for spring. Number 7 light fixtures missing covers?*

*Nelson: the globes are missing, we can do it quicker I was just trying to make it easier.*

*Supervisor AJ Neis: if they are a nontraditional fixture they may need to be replaced.*

*Nelson: it's a bedroom and living room and outside the front door. I think we have the globe for the exterior.*

*Neis: the one hanging is more concerning than the globes.*

*Moermond: is that written as its own order?*

*Neis: the ones on there are standard globes*

*Moermond: item 21 talks about the hanging light fixtures.*

*Neis: that should be done in 30 days.*

*Moermond: agreed, so 30 on number 7 and 21. Number 8, interior/exterior doors?*

*Nelson: the door handle fell off, it just needs to be replaced. We have an opener and handle that can be put on. The back entry door does fit in the frame, it appears to have been pushed in when there was a chain on there so it needs the trim replaced.*

*Moermond: ok so 30 days on that. Grounding jumper for the water meter?*

*Nelson: that was installed by the City when they changed my meter. Efrayn Franquiz said it has a 12 gauge and needs a 14 gauge, but we can do it ourselves. We can do that in 30 days.*

*Moermond: unused openings for switches and circuit breakers shall be closed.*

*Neis: the electrical panel is missing a circuit breaker, that is a simple fix that you can get. You can buy the plastic cover, look for the manufacturer of the panel and then go to the store and they sell just the panel fronts, its clips in there so bugs and rodents don't crawl in. If you can't find it, you can just buy another breaker and install in that spot and write "unused".*

*Nelson: is that 10 and 11?*

*Moermond: yes. 30 days on that. Handrail?*

*Nelson: 30 days we can do that too.*

*Moermond: broken stair treads to the basement.*

*Saddleblanket: there are a couple that are split. 30 days is fine.*

*Moermond: loose toilet?*

*Nelson: 30 days, we replaced it but it didn't get anchor bolts in it.*

*Moermond: orderly storage of materials in first level?*

*Nelson: that's done.*

*Moermond: sixteen?*

*Nelson: that's done too*

*Moermond: openings and cracks and paint, I'm thinking 90 days on that, its not used as a duplex.*

*Neis: just put the condition that it can't be used as a duplex.*

*Moermond: fire separation in number 18 is the same kind of issue. As I understand the upper level doesn't have heat? Right now, its not in use, and no unit door separating those. CAPR won't restore the duplex, just the unit being lived in. They did the furnace and venting on the first level.*

Nelson: the venting fills that hole where the chimney used to be. It just needs to be framed and sheet rocked in.

Moermond: in terms of separating the two units, your brother said he's signing this over to you, what's the long term plan? Duplex or single family home?

Nelson: I'd like single family home, but Efrayn said I might not be able to do it.

Moermond: the fire separation is for two distinct units, if you're changing how its configured, that's fine. Mr. Neis can you talk about what's involved in that?

Neis: Efrayn was probably saying once its been a single-family home for more than a year, converting it back into a duplex is more challenging.

Nelson: I'm not concerned about that. I just want a single family home.

Neis: it would be a building permit changing it over from duplex to single family dwelling.

Moermond: you can continue to have the doors missing, number 18, not a concern if someone else isn't living upstairs.

Neis: any plumbing up there?

Saddleblanket: there are lines running up, but they're capped.

Neis: if they aren't capped on the first floor, you may run into issues of freezing.

Nelson: where the bathroom is is gutted, there are floorboards missing, you can see into our stairway so some heat goes up. We have a lot of the materials because my father had good intentions, he just never did it.

Moermond: can you figure out how you want to use it in six months? Lets pick duplex or single family home and fill out the paperwork accordingly, we'll allow this to continue as long as it's a single family home in practice and second floor isn't in use. The title hasn't changed yet and that's going to be dependent on taxes? Is there something else legally going on?

Nelson: probate is being held up, there's a lot of stuff going on. We do plan on paying the taxes. It does probably depend on that being paid off. We're paying them regardless of status of probate is.

Moermond: even if I give it six months, I understand there's a chance you may not be able to make it official because title wont have changed to you yet. Number 19, repair flooring.

Nelson: in front of kitchen sink, it leaked so it was rotted, we have to cut it out and replace it. 90 days.

Moermond: it's a bigger build out, we'll push that out, along with the kitchen counter.

Neis: its not life safety or habitability.

Moermond: 21 and 22 and 23 are 30 days. Upper level excessive accumulation.



*Saddleblanket: there's nothing up there except building materials. Its not hoarded anymore. Its swept and everything.*

*Moermond: ok so that's done. Cracks in second floor walls. 90 days. We've got furnace addressed and that's adequate until we figure out upper level stuff. So, I think we have a plan. We'll send a letter confirming these deadlines, we have 30, 90 and 180 day deadlines.*

*Saddleblanket: the duct work running through the house, do I have to cover and enclose all of them or can it be the industrial look? Its exposed and running all crazy ways.*

*Neis: the answer is yes and yes, you can leave it open, metal isn't combustible, otherwise you can build chases and cover if you want.*

*Moermond: I think we can get this taken care of Wednesday the 18th. If you have concerns you can come to the Council meeting, but I'll put in front of them exactly what we talked about today. We'll make a recommendation on the condemnation saying those issues have been resolved and abated.*

**Referred to the City Council due back on 12/18/2019**

## 2:00 p.m. Hearings

### Fire Certificates of Occupancy

- 6      [RLH FCO 19-127](#)      Appeal of Ron Staeheli to a Correction Notice-Reinspection Complaint at 358 ARBOR STREET.

**Sponsors:**      Noecker

*No one appeared. Rescheduled to LH January 2, 2020.*

**Laid Over to the Legislative Hearings due back on 1/2/2020**

- 7      **RLH FCO 19-128**      Appeal of Elizabeth Tinucci to a Correction Notice - Complaint Inspection at 2309 COMO AVENUE.

**Sponsors:**      Jalali Nelson

*Grant to January 17, 2020 for compliance.*

*Elizabeth Tinucci, Colossal Café, appeared*

*Staff report by Supervisor Leanna Shaff: on November 20, 2019 we received a complaint about a draft curtain on the main entry, Inspector Huseby responded and wrote orders to remove the materials causing an exit obstruction in the entry. We've seen something similar to this a few years back with The Strip Club.*

*Moermond: it looks to me in the third photo I'm not clear where its hanging on the apparatus, is it on two sides or three?*

*Tinucci: its on the two sides, and there are two panels on the front that I did take*

down.

*Moermond: so its set up to be three sides.*

*Tinucci: it is, and that's how we've been operating.*

*Moermond: can you highlight if its besides the tables on the sides? How is it an obstruction?*

*Shaff: the exit should be clear to everyone immediately. If there is an incident, which are very dangerous in a restaurant, they won't get to the exit to be able to leave.*

*Moermond: I know in other cases when we've looked at this its been identified that the curtain itself presents a physical barrier but could become part of the problem in that its flammable, and could exacerbate the problem.*

*Shaff: right, like the ring of fire.*

*Moermond: have you seen, and this is Minnesota and its cold, have you seen other ways this has bene dealt with? I think about plexiglass and we've had stairways where the balustrades have been too far apart for safety and we've said its not safe, but its beautiful, but plexiglass could be put in as a barrier. Are there other materials that would provide a barrier that wouldn't create a problem?*

*Shaff: its possible. It would need to be presented to the building official. We do know this is a nn-sprinkled building, so that can be problematic too. People are creatures of habit, they want to get out the way they came in.*

*Moermond: so how it is put together needs to be clear that it's a divided space, that someone wouldn't walk into it.*

*Shaff: right. Presenting something to the building official would be the way to do it. You have to look at size and accessibility. There are all sorts of factors of what can be there and can't.*

*Tinucci: I spoke to our architect and contractor about what some options are. Our first ask would be to put the class A fire retardant fabric on the sides, but not in the front. But its sounding like that's still obstructing? That was the conversation Laura Huseby and I had, I want this to be right, but I'm not sure what we can do. Our contractor asked about asking about the fire retardant, but then mentioned building something permanent.*

*Shaff: there are so many variables. Materials, size, the door swing and how that works.*

*Tinucci: we had looked at doing a canvas airlock in the front a long time ago, but it would swing into the sidewalk. Are there other things that would make it better, more clearly marked as an exit?*

*Shaff: it gets tough because we can't design in for you. Exiting is paramount to getting people out of harms way. Its not a sprinkled building so we don't have some of the backups. How did Huseby answer your questions?*

*Tinucci: honestly, she told me to tell my customers to dress warmer. The landlord hadn't given me the notice and it was the day before Thanksgiving and we were really*

*busy. You and your staff go into restaurants all day long, I'd like to know what else you've seen.*

*Shaff: unfortunately, with the building it's the nature of the beast. I get it, I wouldn't want to be sitting up front. There is the possibility of constructing something but that would have to go through plan review.*

*Tinucci: do you have any recommendations to design?*

*Moermond: what's your floor area and your seating and how many seats do you have?*

*Tinucci: it is long and narrow. 45 seats.*

*Moermond: when I look at some of the pictures it makes me think we have the door coming in and narrow tables off to the side.*

*Tinucci: its about 20 seats, 4 and 6 tables to the left and right that get the cold air. We do have the hot air blower, but its not enough by itself. We try to heat it from above so it's the hot air that's pushed in from above.*

*Shaff: so realistically it's a half wall. That might work. That seems less daunting.*

*Tinucci: that might work.*

*Moermond: construction-wise its more straightforward and affordable.*

*Tinucci: it could be something built offsite too. I didn't think about that being an option. I'm surprised the wall would work when a curtain wouldn't.*

*Moermond: well its movable. People can get wrapped up in it. Sheetrock burns differently. Fires are high wind events, air is moving.*

*Shaff: what comes to mind is the station night club, though not as big, and people getting caught in the obstacles of the main exit.*

*Moermond: lowest level of intervention that may pass muster is a partial wall. Because your fewer than 50 seats you have more flexibility about exiting than if you were more. I would say that you've talked with your architect and contractor, a call to see about what solution and their timeline would be, I want to be reasonable with you but if they can get a solution in place, we'd like to give an extension to have those conversations. I'm not designing it or reviewing plans, but it doesn't go to Council until January 8, lets say you need to have the matter resolved by January 17, 2020. That means an inspector could come January 21 on to see that you're in compliance either by removing the curtains or pulling a permit and having it signed off on.*

**Referred to the City Council due back on 1/8/2020**

### **3:00 p.m. Hearings**

#### **Water Bill Appeals**

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| <b>8</b> | <b>RLH WB 19-7</b> | <b>Appeal of Kurt and Samantha Chenier to a Water Service Bill at 118 GEORGE STREET WEST.</b> |
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*Recommendation forthcoming.*

*Kurt Chenier, owner, appeared*

*Staff report from Derek Olson, SPRWS: Kurt and Samantha bought this house October 15, 2015. It is a non-single family home, so it is a quarterly account, a duplex and rental property with 5-6 adults.*

*Chenier: two adults and 3 children on lower, 2 adults and teenager on top floor.*

*Olson: when the account first started in January and April, we had regular reading until July 2016, when the usage dropped to six units. Then in October it was zero. We sent out a code violation letter, and it basically says your usage has dropped low, we're concerned, is there anything wrong or is it vacant? Please call us and let us know. It looks like October 27, 2016 we got a call from Samantha saying it was unoccupied and off at the valve. We don't ask questions for at least year. April 2018 our billing staff noticed it was again at zero, so we called Samantha and given same answer, unoccupied and off at the valve. Then august of 2019 we made an appointment to get in and check the meter and found the meter was stopped.*

*Moermond: what happened in 2017?*

*Olson: we didn't contact them. We did in 2016. 2018 we reconnected with Samantha. Same answer. And then this August we found the meter was stopped. The gears inside could break, water can go through, but we can't track it and get a reading to show consumption. When we changed it out, one of the ways is to estimate off a 30-day reading. And that was the day I called to tell him he had a continuous leak.*

*Moermond: in 2018 you connect with Samantha and went to the site?*

*Olson: no, 2018 told it was still vacant. 2019 we said we needed to check the meter because its been zero for so long. Even if it was still vacant, we'd have asked to check it. Staff who manage meter repair make the appointment, that's Jerry Ludden and his staff. They went out and found the gears were not turning the meter. There were people living there and water consumption going on, so you want to put together what a bill might have been based on a month's worth of usage, and during that month we know a leak was happening. Are we assuming that the leak was in existence looking backwards?*

*Olson: no, we didn't use that reading, because we felt it was unfair because we didn't know when it happened. It showed the leak didn't happen until after we replaced the meter. It happened after replacement, it was a toilet leak.*

*Chenier: it was the toilet flapper.*

*Olson: the findings were the meter was worn and damaged, we couldn't get a reading off of it. We use different criteria to go back and estimate and build the lowest of our findings. With this one, one was to get a 30 day reading and prorate it over a 90 day period but with the leak we couldn't do it, it was unfair. The other way is to take the single-family average per person, with a kid under 12 its 5 units, with adults its 9 units over a three month period. So with four adults you're at 36 with the 3 kids its another 15, and then the teenager went off to college, we'd have been right around the 55 to 60 unit range. We weren't confident in that, so we actually took their first two good readings from when Kurt bought the house which was 34 units and 50 and took the*

average, and rebilled back to July of 2016. At that time based on our talks that was the amount of people living there, with that being said we created the cancel rebills and used 42 units for each quarter. We changed the meter again in October, but we data logged from October 14 to Dec 5 of 2019, and based on that they are right on course for 49 units.

Moermond: I asked Ms. Vang to look at the Fire C of O History.

Mai Vang: there's a pending Fire C of O right now. The first appointment was March 2019, 4 appointment letters. There is the C of O deficiency in July, with 2 letters, and then they got their bill in August. Certificate was approved August 13.

Moermond: you're now at a place where you're proposing?

Olson: a bill of 42 units per quarter for a 91 day quarter, but there are a couple quarters with 93 days with 43 units. That was the best we could do with the information we have.

Moermond: and you want to retroactively apply that to what?

Olson: July of 2016 was what we rebilled for.

Moermond: any Fire C of O history prior to this year?

Vang: 2016.

Moermond: who was getting the bills?

Olson: they were going to Kurt and Samantha in Wayzata.

Moermond: and you got the same information I have, did you have any questions about those materials provided?

Chenier: no, Derick and I have spoke at length, he's been very professional and transparent. There's a lot of discrepancy with my side versus his. I moved here in 2010 from Chicago, I have never lived in St. Paul, I owned a home in Deep Haven, I moved here to take a job at Target Field. I rented my home that I owned for a few years, and it turned out to be longer than the capital gains tax allowed without paying the penalty, I decided to reinvest in a home in St. Paul. Its my retirement fund, I am a single wage earner with 3 children, my wife stays at home. This is a part time retirement fund, we will probably move in eventually. I have a well at my house, so I'm not used to getting a water bill. We were getting bills, but they were minimum, you don't question it, you move on. When he called in August, I was blown away that this happened or there was an issue with the meter. When I bought the home in 2015, there was vacancy on the second floor which was filled within weeks. The downstairs tenant was taking advantage of some things in the house, people who weren't living there were doing laundry which is where those bills were coming from so when it dropped I assumed it was because the tenant had abused it and we asked them to move on. The house has been occupied all of about 3-4 months of one unit since we bought it. Its hard for me to understand. Samantha says she never said it was vacant, I've asked her multiple times why she would say that and she said she never did. Somehow this has been wires crossed over 3 or 4 years. In the meantime, we've been paying the bill and when Derick and his team contacted me, I felt like I was very reactive to what he asked me to do, and was responsive to the situation. At this point, I don't understand the fairness

aspect of dropping a \$4,500 bill on my plate when I feel I've been doing the right things the whole time. I had a tenant that was behind on rent and didn't evict them, and I went to some City workshops. Taxes have gone up and I haven't raised the rent, I'm trying to do the right thing. I'm trying to make it work for myself and my family. It's a tough spot, how can you go four years and not realize the meter didn't work?

Moermond: I kind of say on both sides that's the question.

Chenier: after we had an arrangement for monthly payments, but he also told me I can appeal. I commend Derek for giving the lowest bill possible, but it's still a lot of money. I don't understand how you can realize the meter isn't working. I've never paid a water bill, I had nothing to compare it to, it's ignorance on our part. You get a bill in the mail you pay it, but the reality is we didn't question it.

Moermond: what is the best outcome from your perspective? What are you looking for?

Chenier: the best would be that I don't have to pay anything retroactively. That's probably a long shot, I can see from Derek's side of things, I can see if you used something you should pay for it. But if you didn't know the equipment being used was faulty and why would you skip years, they got a hold of me in August with no issues, they could have done the same thing almost 5 years ago. That's the part that stings. I don't know what's fair, I don't think the full amount is fair but zero is probably also not fair. I don't expect to not pay a dime, but to pay the full amount isn't fair also. I feel like Derek has been on my side as much as I can be, but I wanted to appeal and make my point.

Moermond: I'm curious, when the old meter was taken apart and found the gears were stripped, I haven't heard of that problem before, I'm wondering about meter tampering, and previous tenants using a lot of water. Was there any evidence of that?

Olson: closing notes say August 6, 2019 reset and reseal head. Head was never pinned and not tampered with. Here it is saying it was never pinned, all it would take is someone to bump it just right so it's not sitting right on there. We're not accusing anyone of tampering, but it may have been just enough that it wasn't registering. We think whoever it was, the tech or whoever installed it, didn't put the pin in and just put the head on in a fashion where it was registering, but at some point it got moved whether it was kids playing or whatever. It was never pinned, and it should have had a pin in it.

Moermond: do we know when that meter was installed?

Olson: August 1, 2012 and August 8, 2012, sometime between there, it was installed by a contractor when we did our meter replacement.

Moermond: again not understanding, if we have a pin holding the device together, how does the absence of that pin, that lack of alignment, is what ends up stripping the gears?

Olson: so it's not necessarily stripped, it was just the position it was in the gears weren't turning. With it not sitting on there in the manner it should be, it doesn't allow it to turn. If the pin was in it the head couldn't move, if the head comes off just a little bit it wouldn't register.

Moermond: has this happened before to your knowledge?

Olson: I'm not sure. I think there has been times there haven't been pins but those have been evidence of tampering. From what I hear to get a pin out it takes a lot of force, so to have a meter sitting with a head and no damage. I assume this one looked clean with no damage that's why they are so strong on whether it was not tampered with.

Moermond: ok so there's some follow up I'd want to do with Jerry Ludden about that. When we get properties with no water going through the meter, the standard operating procedure is an annual check?

Olson: its "we will not contact you within a year", so it's at least a year. I'm not sure why this didn't get contacted in October of 2017.

Moermond: I guess I'm wondering, what the relationship is between a finding that water isn't running to a referral to the vacant building program or unfit for human habitation. It seems like if you don't have water it doesn't get referred to DSI?

Olson: we send a letter and ask them to call and tell us why there is no usage. They are answered by Jerry Ludden's office. They told us Samantha called in, Kurt says she didn't. I can't verify that one way or the other. My employee called in 2018, I can't verify that either. We had a phonecall October 2019 and said they were the owner, and they had hung up and then called him back a few days later. As far as going back and telling you who we talked to, we just have the notes from the file.

Moermond: do you have any other question or statements you want to make?

Chenier: it sounds like it could have been damaged all the way back in 2012, when it was originally put in.

Moermond: no, it couldn't have been because in June 2016 we got a reading down to 6 units, so we pinpointed it so to speak.

Chenier: we've had other things were working with the City on since I've owned the property. To me its obvious its been occupied, its hard for me to understand its been vacant. Why would my wife flat out lie when its pretty clear it wasn't? They knock on the door for everything else, why didn't it get checked. That is hard for me to understand.

Moermond: no usage and no one being there doesn't result in any administrative action. If there's no usage and people living there they do send it to DSI. That's where the breakdown happened.

Olson: if there were people living there we would have been in there right away.

Moermond: now I'm trying to figure out the water responsibility.

Chenier: the first tenant I had was abusing it, so those higher levels were from them, so when they left and the bill dropped I had no other reason to question it. The original tenant must have been abusing the heck out of it, and now its at a normal level, coupled with the fact I've never paid a St. Paul water bill.

Moermond: the record you gave me only goes back to the first quarter of 2016 and it shows that the January 2016 bill talks about 34 units of consumption. That makes sense for a vacant upper unit. The following quarter, first of 2016 50 units get billed. I'm seeing 6 billed for next quarter, second 2016. The 42 consistently showing up is the rebills. The consumption and meter reading it wouldn't have changed from 371, the

*last official meter reading.*

*Olson: when we remove the meter in August of 2019, it was 0371, it had not moved. And again, we're not accusing anyone of lying. Maybe Samantha said it was the upper unit. We try to take people at their word and ask them to give us a reason why its lower. The last thing we want to do is make you use up vacation time and have nothing wrong because there was no one there. Maybe we need to look at that again, we see it from both sides. The data log shows they are on course to use 49 units the last quarter. So, we weren't pushing it either.*

*Chenier: I just want to stress I've tried my best to be complaint in all areas of St. Paul. Its been a heck of a summer for me between fire inspections and lead paint and then to get the water bill at the end, I couldn't believe it. I'm a little blown away by the whole thing. Hopefully you can help us compromise here, and make it fair for everyone.*

*Moermond: what was the payment arrangement you'd arrived upon?*

*Olson: we have it going to December 15, 2023.*

*Moermond: that is doubling the quarterly bill for the same period of time there was no readings? You look back four years and forward four years?*

*Olson: No, we take the total amount and because they get four bills, we have them making 8 payments in the year 2020. The other four months of the year, he's going to pay the whole amount on his current bills. The first two months make payments on the old bill, the third month he will get a bill and he has to pay that off. So, over the course of this bill, 8 months of the year he's paying on the rebilled amount, the other four months he's going to pay on the current bill. There's no late charges, no shut offs if they keep up, and no interest. It is just paying on the balance. The last payment will be December 15, 2023. \$100 a month until March of 2023, then it goes to \$125/month with the last payment being \$142.*

*Chenier: on the confirmation on the payment schedule there is some verbiage there about "water service being shut off without further notification if the payments not in our hands by 4:30". Whatever happens, I was hoping we'd have a chance to soften that, clerical errors could cause the water to be shut off.*

*Olson: in your case that's not necessarily true, we would put a notice on the property two weeks before we'd do that, so your tenants could call you, and if I happened to see it I'd definitely call you. I don't always see them though.*

*Chenier: I just want to make sure because when you see things in writing like that you're like, woah that's serious.*

*Moermond: I think realistically a sentence could be added to that letter to clear that point up.*

*Chenier: I just asked because I had a similar situation with the lead paint issue with the house and I got a letter from St. Paul and the language was very strong and I was very nervous about having to spend thousands of dollars to get things corrected, and what I found was much like working with Derek, a lot of the times the letters are harsh to get you to react but once you engage in conversation that's the intent of the letter. I just want to make sure that's the intention here. I don't want my tenants in a situation without enough notice.*



*Olson: we only have one standard letter, which could be edited in the future. When you make payments, it stops collection activity and letters, so that's why it says that, because we don't then go out and placard it because you made the arrangement. He doesn't live at the property, so then we put a notice on the door, so they know they need to call in and pay what's owed or contact the person who is supposed to be paying it.*

**Referred to the Board of Water Commissioners due back on 1/14/2020**