

November 21, 2022

The Board of Public Works & Safety met on Monday, November 21, 2022 at 10:00 a.m. in the Marion City Council Chambers. Present were Alex Huskey, Janice Adams, Cindy Cunningham, Brian Flynn, Linda Wilk, and secretary to the board.

Motion to approve the minutes for October 17, 2022- Brian Flynn; seconded Linda Wilk.  
Cindy Cunningham-abstain

Motion to approve the minutes for November 7, 2022- Cindy Cunningham; seconded Brian Flynn. Linda Wilk-abstain.

**Building Department-1726 W. 9<sup>th</sup> St.**

Jerry Foustnight: Good morning board, Mr. President. Uh, I am here today, I have uh different properties I want to present to you, the board. Uh the first one we will present is 1726 W. 9<sup>th</sup> Street. Uh this is a garage that uh the roof is collapsing on it, it had a uh a blue tarp on it for quite a period of time. Uh we did take and uh uh send out all of the information to the property owner. I did have a meeting with the property owner up in my office. We extended the grace period for repairs for this property and uh he uh hasn't fulfilled his obligation or his, his agreement with us. Uh therefore we are presenting this before you today. Uh to let us move forward on this process of demoing the garage. Uh we uh extended his grace period for this project until May 30<sup>th</sup> and if it wasn't completed we said that we would take legal action on it. It hasn't been completed as we speak today, therefore I am asking that the board would approve this uh request for demo.

Brian Flynn: Jerry it looks like we approved this last week.

Jerry Foustnight: Well, there was a issue and um I am representing it before the board. Uh,

Alex Huskey: So the first order of business for this is that this was presented last meeting. There was a procedural error that needed to be corrected and so it is coming back before the board. So, the first thing that we need to do is before we take any additional action is stay the previous order that we issued so that we can then hear this in its totality. So, I would entertain a motion to stay the previous order for demolition and then hear this matter again today.

Motion to stay the previous demolition order on 1726 W. 9<sup>th</sup> Street and revisit this to correct any errors of procedure in the matter- Brian Flynn; seconded Cindy Cunningham. Motion carried.

Alex Huskey: And since 1726 is being presented today is there anyone in the audience that is here for this property. If so if you could come forward if you are here to speak on behalf of this property, come forward and you will state your name for the matter of the record and then we will hear what you have to say.

Whitney Gilbert: Hi folks, this is the property owner's wife and daughter. Uh her English is not real great so she was a little nervous about coming and speaking but she um is here on behalf of her husband who is in a nursing home right now, correct.

Unknown: yes

Whitney Gilbert: Okay. We had rescheduled from the 7<sup>th</sup> because he was unable to make it. Um they were hoping that he would be able to make it today but he was not able to make it um so they are here for that, okay.

Alex Huskey: Okay and what's the wife's name.

Agapita Lopez

Alex Huskey: Thank you. And will your daughter be speaking as well?

Agapita Lopez: Yes.

Alex Huskey: And what is your name?

Daniela Lopez.

Alex Huskey: Okay, And Daniela are you an adult?

Daniela Lopez: Yes.

Alex Huskey: Okay, I just wanted to make sure because in the event that we need you to speak on behalf of Mom to help her out and to help us out I just wanted to make sure that you can actually have these types of conversations.

Daniela Lopez: Yep.

Alex Huskey: Okay. Thank you. You may be seated. So you all do understand that these properties, this property is for demolition. And, you want to speak on behalf of this property.

Whitney Gilbert: I think they kind of wanted to explain why he wasn't able to make it.

Alex Huskey: Okay.

Daniela Lopez: Well a few days before his date on November 7<sup>th</sup>. Um he was admitted into the emergency room for um seizures, uh stroke, um he had bleeding in the side of his brain and also

fractured ribs which is why he was transported to Fort Wayne and then in now in, I am not sure if I pronouncing correctly, Aperia Rehabilitation Home right now, which is why is not able to make it.

Alex Huskey: Okay, so you understand that that the condition of this property is said to be in such bad repair that it needs to be destroyed, demolished is that correct?

Daniela Lopez: yes.

Alex Huskey: Do you have any means at all of being able to repair these structures:

Agapita Lopez: Inside.

Daniela Lopez: Inside they have tried to um repair the structure of it and um well just because of the issue especially that we have had about two weeks ago they had not been able to complete it. But yes they were planning and in the process of fixing the structure as well as the outside.

Alex Huskey: Okay. So, how long has it been since they have done any work on the property?

Agapita Lopez: Well um we start I think in May but I went to the hospital and I was at the hospital for four days so I was not able to help him and so we stopped and then we tried to continue but we work only him and I kind of slow but we tried to start inside.

Alex Huskey: Has anybody been in contact with Mr. Foustnight's office about what progress you have made or tried to make?

Daniela Lopez: No.

Janice Adams: So what is the purpose and the use of the building? Is it for housing or?

Jerry Foustnight: Are you talking to me?

Janice Adams: To them.

Jerry Foustnight: Oh Okay,

Janice Adams: What is the purpose of it? Is it housing or what?

Daniela Lopez: No, it is just for storage at the moment so it is just a garage.

Cindy Cunningham: Jerry I am assuming that you feel like it is unsafe.

Jerry Foustnight: Uh yes, just a little background um uh on February the 15<sup>th</sup> of 2022 we sent a letter of unsafe structure for this building. We also after we sent the notice uh I did have a meeting on February 17<sup>th</sup> uh with the owner of the property and explained the situation and why it was unsafe. We had uh neighbors within the neighborhood complaining about the roofing blowing in their yard and different things like that so we did have a meeting with him. On that day I gave him an extension of uh until uh May the 30<sup>th</sup> to get it completed. He assured me in that meeting that he would be able to get it taken care of and that the work would be completed. Uh again my secretarial staff sent a letter to him uh regarding the extension that we had given him. That extension to get the work completed. Uh uh over that period of time no works been done. I don't know about the inside of the building because that, I, I, I don't know why they would be working on the inside when the roof as you can see in the pictures is uh has a big valley in it. It has holes in it and everything like that so I am not sure as far as what they are talking about on the inside. My, my concern or the concern of the city is the condition of the building itself. And uh I feel like as a uh city I feel like we have been lenient as far as giving extensions to the property owner to complete the work. Uh again I understand that he's that he is now in a rehabilitation place here in Marion but uh that has been within the last two weeks and prior to that no work has been uh completed on the outside that we could see. So, that is why we are asking that this be approved for the demo process. And I, I understand un their concerns and I also understand the city's responsibility to uh move forward on uh properties that we consider unsafe that uh we have complaints on.

Cindy Cunningham: Is the garage being used? Is there anybody in the house in front?

Agapita Lopez: No.

Cindy Cunningham: Okay so the garage is not being used or it is being used?

Agapita Lopez: It is stuff inside the garage.

Cindy Cunningham: Like storage.

Daniela Lopez: Yes,

Cindy Cunningham: Okay.

Linda Wilk: Are you able to put what is inside the garage somewhere else? Do you have an alternative place?

Daniela Lopez: As of right now, no.

Linda Wilk: Okay.

Alex Huskey: And the house is vacant you said? No one is living in the house?

Daniela Lopez: yes.

Janice Adams: Can you move those things from the garage to the house? Do you

Agapita Lopez: (inaudible)

Daniela Lopez: We have had frequent robberies inside the vacant house and in the process of that they have destroyed and just completely you know just clutter everywhere so at the moment it is

a little bit difficult for us to try to move those things in there. With the fact that they have been I am not sure they have been doing it frequently or recently but it was frequent that they would just keep doing the clutter inside.

Janice Adams: But if the property is as you stated the roof and all of that, whatever you have in there it is being damaged anyway with the weather and etcetera is it not? Especially in the cold and snow now. So the things that you have in the garage are they not already damaged because of weather conditions.

Agapita Lopez: We already take some stuff from garage but it, it's not clothes it is um like it is two motorcycles and a van and I don't know (inaudible)

Alex Huskey: Are the motorcycles and the van operational?

Agapita Lopez: Uh no.

Alex Huskey: So there is a greater problem even then with that, okay.

Cindy Cunningham: And I am sorry that your husband is ill but are you going to hire somebody to fix this up or was he planning on when he got better doing it. You know doing the repairs.

Agapita Lopez: Well his plan is to fix the garage.

Cindy Cunningham: Himself?

Agapita Lopez: He already looked for someone to help but they never have answered so we working only him and me. We are working kind of slow. Sometimes he say he not feel good or something so I did not force him to work because he is 83 or 84 years old so.

Linda Wilk: So Jerry what is the structure of the building? Is it something that sits through a winter is it going to deteriorate.

Jerry Foustnight: The side is block but the roof itself you can see in the pictures that it is starting to cave in. Therefore that makes it an unsafe structure and um in my conversations with the property owner back on the 17<sup>th</sup> uh he did advise that he you know because of the money issues and different things like that it will take him a little while to do it that is why we granted an extension so that he would have, he indicated that if we gave him that he would be able to move forward on the project and uh even though we gave that extension no progress has been made. No, I don't want to say that I don't think any attempts have been made Linda so uh that is why we brought it forward today.

Linda Wilk: My next question is at this point in time will you do any demolitions yet this year. I mean if it is put on the demolition list will it be 2023 when it would be likely to be demolished.

Jerry Foustnight: Uh it will probably be what we will do is we will put it on our list and as we come to it, then that is when it will be done. But uh you know I want to I would like to get the affirmative action on this so we can put it on the list. I feel like you know we gave him until May 30<sup>th</sup> and here we are at the end of November and still no progress has been made so that has been, we extended for that period of time plus now we extended or you know he has had ample time to complete it and so uh uh we we feel like that uh uh we need to move forward on the project. I mean I understand about using it for storage but as one of you indicated it has to behaving moisture going through because there are openings as you can see and that is why the old tarp that is on there has been blowing off due to the weather. And an old tarp that that you place on that building isn't going to be shredded like it is if it hasn't been there for a long period of time and so anyway uh, uh I understand their concern but I also understand our concerns as a city that uh

Linda Wilk: Yeah. My only point is could it be put on the demolition list once it comes up to be demolished contact them and see if any progress has been made and if it hasn't then it gets torn down. I mean you are going to know if it is tenth on the list and there is no more demolitions this year it is not going to probably happen until March I would guess. I mean is that possible to do that? Put it on the list and say no more extensions it is now on the list but we are willing to call you the week before to see where it is out.

Jerry Foustnight: Right, but see Linda that would start uh something that we would have to do to everyone. You know once we approve it or once it is approved then you know if we would call everybody prior to it we don't do that you know once it is approved uh well

Cindy Cunningham: Well maybe they could call you, you know if they have made any progress call you and say hey come look at it.

Jerry Foustnight: We would be willing to go look at it you know if, if, if they were trying to fix it up or something and they made progress on it but on the other hand we don't want any individual putting money into a structure that would when we are ready to demo it and it hasn't been completed; say a third of it has been completed or whatever then do we take and say oh they are working on it and we are going to allow another six months or whatever? Do you see what I am saying?

Cindy Cuning: mm mm hmmm

Jerry Foustnight: We just you know we try to be fair and that is why we start with the process of sending out the unsafe letter notice and then we go step by step. My secretary Whitney she very precise in our procedures in how we do it. And uh so uh we would want to make sure that uh if it is affirmed that they would understand that if they put any money into it that if we come out there and we would see oh yeah uh we see you put money in it and it is time for demo and it is not completed then you know then they have wasted their money basically, you know what I am saying?

Linda Wilk: Right.

Jerry Foustnight: And I, I would hate to see anybody do that also. Uh but uh you know I will do uh you know what's the pleasure of the board, you know if you want us to uh uh start a policy where we are going to have to contact individuals prior to the demo you know we can send out a certified letter or whatever to them.

Alex Huskey: So, one of the pleasures of being able to sit on this board for such a long period of time and one of the curses of having a good memory is I can go back at least six years and go and I can think of three properties that we have allowed people to redeem um and I can actually visualize those properties in my mind that if they were able to get those properties up to good repair then we could actually pull it back from the demolition list. We have done that in the past and so I think one of the things though would be is that there has to be a good faith effort with, with reasonable um workers and people that can get the job done. I am not quite sure that someone who experiencing health issues would be able to do that. But if we know um that a property is going to be demolished, I don't think we have ever notified anyone of a property being demolished; but what we have done is given them opportunity to come back and present their case previously and say hey we, we have made significant progress since the demolition order has been issued and we, we want to redeem ourselves and redeem that property. So, I think there is a precedence that is already set um and I think that it would be the pleasure of the board to determine what would be reasonable moving forward for this property. But, if it is set for demolition um then um certainly I think prior to demolition they would have an opportunity to try to get some work done. But, looking at the condition of the building it would have to take the work of more than two people and probably a contractor to get the building in good enough repair because uh I am really concerned about anybody going in and out of the building with the roof concaved like it is.

Jerry Foustnight: If I could respond. And you are exactly right. We have in the past if an individual says uh we just did it for the house up on Fourth Street if you remember uh they came in and said they wanted to move forward on it. They had a plan, they had the contractors, and everything was in place. We went ahead and said yes and postponed it and you can see today that they have made a lot of improvement up there and so we have done that in the past. But again as we look at the facts sheet you will see that we have actually given them time to try to uh take care of the issues and everything so uh I guess I sit here before you and say I believe that we have done everything that we can do to move forward and uh if you feel like they need additional time to uh complete the project that, that is fine also. I guess we as a building department we are going to stand firm on our suggestion or recommendation for a demo on that property.

Linda Wilk: Do you have an estimate on what it would cost to renovate that just from your experience? Do you may be (inaudible) how much it would cost?

Jerry Foustnight: Um, Linda I don't. I don't.

Linda Wilk: I know, I just

Jerry Foustnight: You know because of the price of lumber.

Linda Wilk: I know

Cindy Cunningham: Is the roof the main issue?

Jerry Foustnight: Yes and you can see it it is

Cindy Cunningham: Have you looked into hiring somebody to replace the roof.

Agapita Lopez: Yes, he talked with a person but um my husband he wanted to put everything new on (inaudible) all the wood that goes inside and that is what is taking a long time because they already buy some stuff so I guess but he wanted to do everything safe

Cindy Cunningham: So let's say that he can't or doesn't want to. You know and we are back in this same position and the building is the same or worse in a year because he just doesn't feel like it or he you know isn't because of health.

Agapita Lopez: Yes because in the past he already have heart problems, heart attacks, and he works slow and then the weather you know

Cindy Cunningham: But realistically it sounds like he is not going to be able to go in and do that by himself or with you.

Agapita Lopez: Yes.

Cindy Cunningham: And he doesn't want to hire somebody to do it.

Agapita Lopez: Well he try but the people that he talked he wanted something easy and not to do all this stuff.

Cindy Cunningham: Okay.

Alex Huskey: Any additional questions, comments, concerns?

Janice Adams: I guess my concern again is you mention his age and etcetera is the time frame. You have had this so we don't know what the recovery for him is going to be and if it is a danger for the community and it has been established my concern is, is the time frame in which he would have this completed. Now this is uh the cold season for Indiana so I don't see the weather getting any better, so even if he got better unless he had someone to help him and listening to the type of health issues that he has had I don't see that being to the point that he would be able to do that kind of work within the next two or three months. So this for me, I am not from Indiana but I know I have been here long enough to know Indiana weather and so we are getting ready to go into and can expect some cold weather from here to maybe even around March or April. And so that means that he won't be able to do anything during that time frame unless you guys are financially able to get someone else in to do the work for you. So are you able (I think someone else asked that questions) are you able to pay someone to do the work for you?

Agapita Lopez: Uh I don't know because my husband is the one who works on the budget.

Janice Adams: That would be my concern is that we are getting ready to go into some really unless something else happens that has just been my experience with Indiana weather. So he is not going to be to do anything probably from now until maybe even April. April or May and so there is always that danger for the community.

Alex Huskey: Alright, so is there a motion to be presented?

Motion to approve the demolition of the property at 1726 W. 9<sup>th</sup> Street the garage specifically- Linda Wilk; seconded Cindy Cunningham. Motion carries.

Alex Huskey: Now Ms. Lopez we today approved the demolition of the garage because it is an unsafe structure but please know that you and your husband have opportunities to make arrangements. If you get that structure repaired before the demolition takes place we can rescind that order. And Daniela can you help her to make sure that she understands.

Daniela Lopez: Yes.

Alex Huskey: We really want the best for all parties concern. We really want the best for you all, we want the best for the community so anything you can do to navigate that and get that work done I am sure they will appreciate it. Okay, thank you.

### **Building Department-3810 S. Landess St.**

Jerry Foustnight: This property was involved in a fire uh we took and we have had complaints from neighbors' considering the property. We did go out and we did look at it. We did take pictures and presented them to you. Again, um we uh took and uh the ten day notice was sent on 8-2 of 22 uh it was delivered and picked up by the recipient uh we did get our title work as required. Uh the Board of Works notice was sent uh and it was delivered and picked up by the recipient on 10-19 of 22. Uh uh so uh as you can see the property has been boarded up for quite a period of time. We took and we ask that you would affirm the demo request for this property.

Brian Flynn: Jerry I drove by the property this morning. It looks like the fire was in the garage part.

Jerry Foustnight: Yes.

Brian Flynn: Correct?

Jerry Foustnight: Yes

Brian Flynn: And are we talking about?

Jerry Foustnight: Yes the garage.

Brian Flynn: Just the garage?

Jerry Foustnight: Yes.

Brian Flynn: Just the garage, not the house on the alley?

Jerry Foustnight: No not the alley. The garage itself there as you can see in the pictures. We submit to you the property as a whole when we do this, but it will be the garage that we're uh concerned about.

Alex Huskey: Is there anybody here representing this property?

Unknown speaker: That is her.

Alex Huskey: Good morning. For the purpose of the record could you please state your name?

Rebecca Colmenero

Alex Huskey: And are you the owner of this property?

Rebecca Colmenero: yes.

Alex Huskey: And Ma'am you then are with her uh are you a relative or

Unknown speaker: No, I am just her home health aide.

Alex Huskey: Okay, thank you. So Ms. Colmenero if you want to have a seat you most certainly can have a seat. So there was a fire to the garage.

Rebecca Colmenero: Yes, sir.

Alex Huskey: And was the garage insured at the time of the fire?

Rebecca Colmenero: Very much. Yes.

Alex Huskey: So the garage was insured at the time of the fire.

Rebecca Colmenero: Secured?

Alex Huskey: Insured, did it have insurance?

Rebecca Colmenero: No.

Alex Huskey: And what is the garage used for?

Rebecca Colmenero: To park our cars in. Hold stuff.

Alex Huskey: And you do understand today is to hear that there is a request to have the property demolished, correct.

Rebecca Colmenero: Yes.

Alex Huskey: Okay. So since the fire what work has been done to make sure that this garage is taken care of and made a safe structure?

Rebecca Colmenero: Um I didn't understand that would you repeat it?

Alex Huskey: Has there been any work done on the garage to make it safe?

Rebecca Colmenero: Yes we have taken the burnt wood off. Which it wasn't damaged a whole lot. And we have made it uh secure where it is not going to fall or nothing because it wasn't burnt that bad thank God. Um I've got the doors to put up to replace, the doors that melted and I have got the wood to us start putting it back together. I have got a contractor that is going to redo it for me.

Alex Huskey: Do you have a signed agreement with that contractor.

Rebecca Colmenero: Uh he just wrote up the estimate for me and everything and I just got it. Um Friday. But he hasn't brought it back down to me. But we will have it signed and everything.

Alex Huskey: So have you been in contact with the city building department since the fire?

Rebecca Colmenero: Yes because I got a letter in the mail and I have talked to somebody I don't remember their name. I don't remember names very well so I really can't tell you who it was.

Alex Huskey: Have you kept them abreast of what your plans were?

Rebecca Colmenero: Yes, because I was asking about a building permit and they said they couldn't give me one until this was over so,

Alex Huskey: So that was only after they contacted about the demolition, is that correct?

Rebecca Colmenero: Yes but I have been looking for a contractor in the meantime.

Alex Huskey: And you have an estimate but not a signed agreement for the work?

Rebecca Colmenero: No. But he is going to do the work we just haven't got it signed yet because he has been busy doing a roof somewhere.

Brian Flynn: Do you have an estimated time from the contractor on when he will be able to start?

Rebecca Colmenero: No.

Lind Wilk: Jerry can you talk about, this is structurally unsound again is that correct?

Jerry Foustnight: Yes, it was burned in a fire again we went and looked at it and considered it an unsafe structure uh we did uh again we did send out we were contacted concerning this property. We had no contact until uh uh Ms. Gilbert, I asked her on the 21<sup>st</sup> to make contact. On the 25<sup>th</sup> when she returned to work she made contact and answered questions concerning the meeting, the details of the meeting, and the location. So, um prior to that we had no conversations or anything concerning the property uh and again we sent out the notice on August 1<sup>st</sup> and notification was sent to the property owner. The ten day notice was sent on the 2<sup>nd</sup> of August. So we sent the notice on the 2<sup>nd</sup> of August. We had no communications until the Board of Works letter was received uh concerning the demo process and then uh on 10-25 uh she um Ms. Gilbert made contact with her concerning the Board of Works. The Board of Works notice was uh sent on 10-17 of 22 so there was a period in time from 8-2 when the letter was sent until uh 10-25 of 22 until the communication was made. So there was a period in time that uh nothing was said or anything um concerning the property or the property that we are speaking of.

Linda Wilk: I guess I am having a hard time because when I look at the picture it looks like the roof is intact so was the fire in front where the doors were?

Jerry Foustnight: Well the fire was on the inside and it was also up you can see where the sulfate it where it is bunt, been burnt, charred, burnt through right through there. Uh again this has been has had these boards leaning up against the property for a long period of time. Again, uh this this was uh we weren't aware of this property until we got complaints from the neighbor, neighboring individuals complaining about the condition of the property. Uh, and then once we did our investigation and looked at it that is when we determined that it was unsafe and uh, uh again if we would have contacted prior to the meeting saying I have a contractor here is who the

contractor is here is his signed agreement that they are going to start to work in the month of January or whatever so we would have some kind of indication that something was moving forward then we would have taken and actually uh maybe gave her additional time like Mr. Huskey was saying we done for other people. We would have given some additional time. Um Cindy Cunningham: Would you feel comfortable giving them until Wednesday of this week to bring you in the signed contract with um a date of completion, an expected date of completion on this? Would you feel comfortable giving them a month or you know?

Jerry Foustnight: Um if we were to take an uh do something like that I believe we would have to take and either deny this or approve it since it has already been presented to you we would have deny it or approve it or modify it and I don't know if under modification if you can say that the demo order is in place and then if they don't comply with uh

Cindy Cunningham: Or you can table it until the end of January.

Linda Wilk: Well not until the end of January. Until the next meeting. If there is a contractor that you can talk to and supposed to bring back the signed contract then I don't know why in two weeks we couldn't have a decision.

Cindy Cunningham: You know with an estimated completion date not just the.

Linda Wilk: Right, yeah, yeah. Which shouldn't be, I would like to think if I was doing the work I would want to have it in writing this is when my contractor plans to start the work, complete the work.

Alex Huskey: So there is a couple of things. One, we could approve the order uh to be effective a certain date if the, if they don't provide the necessary or required documents or we can table it for another meeting, or sure those are things that we can do. Um I have one additional question for Ms. Colmenero.

Alex Huskey: Do you have the financial means to get this done. Because if you hire a contract many of them are going to want. You said there was no insurance but many of the contractors are going to want a certain down payment.

Rebecca Colmenero: Yes.

Alex Huskey: You have the financial means to.

Rebecca Colmenero: Yes.

Alex Huskey: Okay.

Rebecca Colmenero: I just couldn't find nobody to do it. And I was in the hospital because I broke my neck and my wrist. I was out of commission for a while so.

Alex Huskey: And do you live at that property or

Rebecca Colmenero: Yes, I do in the back. I live in the back.

Alex Huskey: Okay. I just asked that question because I saw that there is a P.O. Box to Swayzee in here.

Jerry Foustnight: And we as a building department we would much rather see a property repaired then torn down so if, if you would want to take and uh approve this with the understanding that if we get the information and it is approved and everything that they can move forward or table it. It doesn't matter to us. We want to be fair with the individual but we also want to take and make sure the issues are correct.

Alex Huskey: Alright, is there a motion to be made.

Motion to table this until the next Board of Works meeting on December 5 with the understanding that they bring in a signed contract um with the estimated completion date- Cindy Cunningham; seconded Brian Flynn.

Motion carried.

Alex Huskey: Ms. Colmenero you have until December the 5<sup>th</sup> to uh you will be back before this board on December the 5<sup>th</sup>. Uh at that time we are expecting that you will have a signed contract with the individual that is going to perform the work and time lines of how long it is going to be completed.

Rebecca Colmenero: Okay.

Brian Flynn: And you don't have wait until the 5<sup>th</sup> to present that.

Alex Huskey: No,

Brian Flynn: You can present that to uh Jerry and his staff as soon as you have that available.

Alex Huskey: Thank you.

### **Building Department-3811 S. Landess St.**

Jerry Foustnight: Uh again we went through all of the property notifications (inaudible) uh I presented to the board uh I just got it before the meeting started uh a uh a outline as to repairs that they want to make on this structure. The time table uh how they are wanting to move forward on this. What I would like to is uh with the board's approval is I would like to take and give them the opportunity to work on this and repair this structure with the understanding that if

they don't follow the time table, if they don't do as they are supposed to then I would bring it back before the board for uh an additional request on the property.

Alex Huskey: So are you comfortable with this process taking a year to complete as outlined?

Jerry Foustnight: Well uh I understand. I have had conversations with them. Again, uh I believe that as they move forward some of this may be a little quicker. I do know that uh if we can see any type of work that is being done to rehab this building or something like that again I would much rather give them the opportunity to do it with the understanding that uh you know we would notify them by certified mail again saying that we have their timetable in place and if they don't comply or follow the time table then it will be presented to the Board of Works for the request for demo. And we will make it hopefully they would understand that uh you know they money they would put into this structure if they don't complete it as the time table says then we would come back and that money for the project they done would be lost basically.

Alex Huskey: What would be a reasonable time frame that you would bring this back to the board to know that progress is being made.

Jerry Foustnight: Well what I would like to do is if it is okay with the board. I would like to come back like in January, one of the first meetings in January if I could come back before the board and uh uh update you as far as what progress has been made uh have they done anything, are they keeping to the schedule, uh I can do that every so often. I can bring you information regarding this property to make sure that they are doing it. But I do believe that uh that this intension or this letter that says what they are going to do is a letter that they presented. Not what I presented to them. They presented it to so I would assume that they're saying that they can do this and that is why they are on a time table like that.

Aisha Richard: So it will be January 3<sup>rd</sup> 2023.

Alex Huskey: What I would love then since you just received this today. I anticipate that you will have a conversation with them soon about what was presented today, correct?

Jerry Foustnight: Yes. They are here. I believe they are here.

Alex Huskey: Okay, so what I would love then is that you would give us an initial follow up at the December 5<sup>th</sup> meeting about the meeting today, what was the outcome of the meeting today and then January 3<sup>rd</sup> you can give us more detail about what is taking place at the property.

Jerry Foustnight: Sure. I would be willing to do that.

Alex Huskey: Is the rest of the board comfortable with that?

Board in unison: Yes.

Jerry Foustnight: I will make sure that on December 5<sup>th</sup> I will have a conversation with them and then on January 3<sup>rd</sup>.

Alex Huskey: Thank you.

Jerry Foustnight: And thank you for being understanding and trying to let these individuals improve their property.

Motion to table the demolition at 3811 S. Landess St with the understanding they will come back on December 5<sup>th</sup> for an update and January 3<sup>rd</sup>- Linda; seconded Cindy Cunningham. Motion carried.

#### **Building Department; 1010 N. Branson St.**

Jerry Foustnight: So the next property is the 1010 N Branson Street and I have Gary Massengale owner of Dave's Excavating. He is here to kind of explain uh the situation that we had up there as far as uh what transpired.

Gary Massengale: I am here to face the music.

Alex Huskey: Alright Mr. Massengale, how are you doing today?

Gary Massengale: Well I hope I am doing alright.

Alex Huskey: We had a little bit of discussion about this property last week and certainly not wanting to put you on the spot but wanting to make sure we have full transparency and clarity for the record.

Gary Massengale: Well I screwed up. That is the best I can say.

Alex Huskey: So, for those that are and Mr. Foustnight and the board members that were not here last meeting. We would like a quick synopsis. We don't have to go into detail

Jerry Foustnight: Sure. What has transpired was that uh uh Gary is company submitted bids to us for demolition of two properties, 1010 and 1020 N. Branson Street. So over a period of time uh we knew that we had to bring this before the Board of Works even though the money is being paid through CReED. We bring this to your guys for approval and uh in the meantime no contract had been signed however Gary had another contract with the city that was already signed and there was basically a mix up that he went ahead and tore down 1010 N. Branson Street Uh so uh

Gary Massengale: Don't forget the garage.



Jerry Foustnight: Oh yeah and he there was a garage that was on the property next to it that he tore it down. He tore that property down by mistake and so uh I will let Gary you know expand on that part of it. But uh after the discussion with the board at the last Board of Works meeting we did get a contract signed. You guys at the last board meeting approved the demolition of 1020 N. Branson. So we did sign the contract. That has already been taken care of. Also, in the contract we told him that 1010 that nothing can be done at 1010 until it was approved. And so anyway I had conversation with Gary. We signed a contract of 11-11 of 22. The contract is in place the uh estimate with what all he was going to do and everything is attached to it so we do have all of that information. Uh basically uh Gary went ahead and tore down 1010 and so there is just the some uh debris remaining that needs to be removed but we put a hold on that until you guys would approve it. Uh it's just an error that was that happened we you know one of the things about it these two properties there is not individual that is living that is associated with this property so uh again uh all the information has been presented to you concerning this property. Uh it was a vacant church. It had been vacant for quite a period of time. Uh, we have had the inmate crew go up there and clean it up because of the condition of it because of complaints throughout the neighborhood. We were fortunate because the CREED Board granted us money to take out properties within the CREED district. We took down seven of them and we still had additional monies left and Dave's was gracious enough to say go ahead and use that money for additional properties within the CREED if you could. That is how these two properties came about. That is why we were fortunate enough to be able to demo those two properties on CREED Board money.

Alex Huskey: So essentially we still have to approve the demolition order for 1010 N. Branson. The property's already been demolished because there was a belief that the agreement was in place before it was before the contract was actually signed. Uh and so what we are doing today is providing a remedy for what has already taken place, and then the only other question that I have uh sir is and I am not asking you to disclose any details of the agreement for the garage issue itself.

Dave Massengale: (inaudible)

Alex Huskey: So one of the things that we wanted to do was uh really kind of get this, we wanted to be transparent with this. Uh I know that there were members of the board that were ready to vote during the last meeting but I just I personally was not comfortable in voting and didn't want to create an issue for this process moving forward at the time. So, um are there any other questions for any other board members?

Linda Wilk: I guess my question in approving the demolition that has already taken place does that mean that the cities or the CREED money isn't going to be used for it? I guess I don't know that I agree. I am just concerned about the precedence that sets that somebody can say well I went ahead and demolished this because I was told that it was going to be approved but it wasn't approved and that doesn't seem like good practice.

Jerry Foustnight: The money the CREED Board would the money would come from CREED to pay for this. This was just a misunderstanding. This was a first since I have been here since 2016 that we have ever had an issue and I don't anticipate any other issues because we are very, very comfortable in how we do our process.

Linda Wilk: But I think

Jerry Foustnight: And this was an error on the contractor because he had another contract signed through the city and he assumed but I don't want to speak for Gary that the contract was for that property and he went ahead and started it and then we put a stop to it.

Linda Wilk: I understand what happened. I guess what I am saying is demolitions are huge. People want to see houses demolished so that CREED money could be used on another property. I know it was a mistake. You know what assume stands for I just feel like we don't want to set a precedent unless all of our ts are crossed and our I's are dotted. I mean if I made the mistake I would own it. As costly as that would be I did not have the approval. I mean yes there were two contracts. I get the logistics of it I am just trying to avoid someone coming back later and saying I intended to this but I didn't do it correctly.

Jerry Foustnight: Okay but right or wrong uh when I had conversations with Gary concerning the property I discussed with him the properties I told him that he was the lowest bid on the property, that he would be tearing the properties down. That I was going to take it and we would take it before the Board of Works and that we would get it approved for the demo. So verbally I told him that yes he had the properties and yes he was going to be tearing them down. It was just a matter of I don't know if I want to say miscommunications or what that he is assumed that uh the contracts had been signed and they had not been signed.

Gary Massengale: If I may, jerry. My office manager told me that the contracts for 1020 and 1010 had been approved. She screwed up with the other two utilities. That is how this all started.

I am not in the habit of going around and tearing down things. That was my worst Monday in forty years.

Linda Wilk: And I can appreciate that. I mean that is terrible.

Gary Massengale: But as far as me going and demoing a house just because I think I might get paid I would never do that and I don't think anybody else would do something like that.

Linda Wilk: No, and I think for me it comes down to but the contracts were not signed. You know, there was a verbal conversation but there was nothing in writing stating it was signed.

Cindy Cunningham: I would be more concerned if it wasn't a house that wasn't supposed to come down at all. I understand what you are saying, Linda, however he is right. He has done a lot for the community. He did not do it intentionally and at first two weeks ago I was real torn on what I felt about it but after I gave it some thought because I asked you know if we were going to pay for this I realized again what this company has done for this community and it is not something that has ever happened before. It was an honest mistake. I think we need to go ahead and just sign the contract, or you know approve the demolition and move on from it.

Alex Huskey: So I think the challenge is going to be if CREeD is going to be able to pay for it because it is was not a signed contract. So my concern is do we have the dollars to pay for that out of our budget currently if CREeD does not pay for it. Because they can chose to come back and say no the contract wasn't in place.

Gary Massengale: If CREeD doesn't pay for it I will eat it. Because it was my mistake.

Alex Huskey: No you shouldn't eat it because Jerry gave you a verbal. That is where the issue came in. There was a verbal contract before the actual work was done and so then that we have a city official that took action before.

Gary Massengale: I would not ever hold Jerry to that. I should always have a contract before I tear something down.

Jerry Foustnight: Mr. Huskey we do have the money. The building department does have the money available. I don't believe that it would be an issue with the CREeD Board.

Herb Spitzer: I represent the CREeD and I don't think it will be an issue with the CREeD Board. I understand what happened and if the money was going somewhere other than the demolition of this property there wouldn't be an issue. But based on the facts as I understand (inaudible).

Cindy Cunningham: Thank you.

Alex Huskey: So, I would entertain a motion on this matter.

Motion to approve the demolition at 1010 N. Branson Street- Cindy Cunningham; Just to be clear does that mean paying for it or just approving the demolition?

Alex Huskey: I think it is one in the same.

Brian Flynn; I will seconded.

Linda Wilk voted no.

Jerry Foustnight: Thank you for your time today. I know it has been a long process for us but I appreciate your efforts and hopefully uh those that we tabled we will be able to move forward on those and again I will make my reports to you as requested and we will move forward. Thank you.

Gary Massengale: Thank you members of the board. I hope that will never happen again (inaudible)

### **Public Comment**

No public comment.

### **PAYMENT OF THE BILLS- November 21, 2022**

Alex Huskey: So we have two sets of vouchers. I will start with the first. I will incorporate by reference the vouchers number 49763-49924 in the amount of \$483,976.65 for payment. Are there any questions or concerns about these vouchers?

Motion to approve payment of the vouchers for November 21, 2022- Janice Adams seconded Cindy Cunningham. **Motion passed.**

Motion to adjourn- Linda Wilk; seconded Brian Flynn

Meeting adjourned.

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Alex Huskey- President  
Board of Public Works & Safety

ATTEST:

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Aisha Richard- Secretary  
Board of Public Works & Safety