



## BOARD OF PUBLIC WORKS AND SAFETY MEETING MINUTES

### CITY HALL CHAMBERS

WEDNESDAY, AUGUST 19, 2015

9:30 A.M

Present: Mayor Vanlandingham, Board member Dee Byerly, Board member Greg Metz and City Attorney Doug Lehman.

Department Heads present: Wendy Frazier, Todd Titus, John Stephens, Fire Chief Robert Mullett, Police Chief Larry Schnepf, Scott Richardson, Tyler Niccum and Rick Price.

Council members: Doug Konkle, Joan Haag and Dan Townsend

### MINUTES

Greg Metz moved to approve the Minutes of the meeting of August 5, 2015 as presented. Dee Byerly seconded the motion, motion carried.

### CITY CLAIMS-SEWAGE CLAIMS

Dee Byerly moved to approve for payment the City Claims and Sewage Claims as they were presented and signed. Mayor Vanlandingham seconded the motion, motion carried.

### OLD BUSINESS

1. Update on 453 East Main Street-John Stephens, Building Inspector

John stated there is no update, nothing has been done since the last meeting. The neighbor (Tom Richardson) calls daily about the weeds and vegetation. Plus, none of the siding has been put back on. The Mayor asked if this is the gentleman we (BOW) gave 30 days and he promised he'd do something. Justin Brooks was present and acknowledged he had asked for 30 days but right afterward he had to leave town for a funeral for his grandfather. He was out of town 19 days last month (July) and he asked for two weeks. Dee Byerly asked if he was the only one who takes care of this and he (Justin) stated "yes".

Greg Metz wanted him to return in two weeks for a hearing but Attorney Lehman indicated he's (Justin) entitled to 14 days notice so the hearing should be set for the second meeting in September.

The Mayor indicated he drives by the house almost every day and there's not a thing done to it. He (Mayor) wants the yard cleaned up and, expects something be done on the house by the time we get back together. He's getting tired of listening to the neighbors complain. Mr. Brooks indicated he was going to the house after the meeting to mow, etc.

2. Resolution No. 8, 2015-Authorizing Special Spraying For Mosquitos and accompanying Agreement.

Attorney Lehman explained why we cannot do what we had intended to do. Basically the issue is this, even though we have a permit to do City-wide spraying, you have to have a business license in addition to that in order to be able to charge for spraying. We do not have a business license, and because we do not have a business license, we can't charge anybody for spraying and if we cannot charge anybody for spraying, then I think generally we should not be using taxpayer money to spray other facilities. At this point in time, I don't think we should be doing it.

**NEW BUSINESS**

1. Open quotes for purchase of a small excavator for Street department

Attorney Lehman opened two quotes:

1. B & W Equipment: New unit-A 2015 Doosan DX 63 Compact Excavator: \$78,844.00; A quote for the same unit less a trade for a bio-grinder that the City has of \$45,000, to make a net of \$33,844.00; And then a quote for a demo/rental Doosan DX 60 RD Compact Excavator with 1450 hours on for \$47,900.00, (used unit)

2. Troxel Equipment-It's for a John Deere 60G Compact Excavator-Suggested list price is \$86,546.06, selling price to the City: \$62,274.00

Greg Metz moved to accept the bids (sic), take them under advisement until Scott Richardson has an opportunity to review them and make a recommendation. Mayor Vanlandingham seconded the motion.

Dee Byerly asked if there was a trade in on the used machine or did they just quote the used machine straight out. The answer was that either machine, new or used, it's the same trade-in.

Motion carried.

**OTHER BUSINESS**

None

**QUESTIONS FROM THE AUDIENCE**

None

**REPORTS FROM DEPARTMENTS**

None

Mayor Vanlandingham closed the regular BOW meeting.

**PUBLIC HEARINGS-Unsafe Buildings**

-409 Manchester Avenue

-1184 Pike Street

**HEARING UNSAFE STRUCTURE-409 Manchester Avenue, Wabash, IN-Owner: Theresa M. Hawn**

The Mayor read the Declaration of Unsafe Property and swore in John Stephens, Building Commissioner, James Hoefler, and Jason Frank. No one appeared on behalf of the homeowner.

A preliminary statement was waived by Attorney Douglas Lehman.

James Hoefler (lives at 429 Manchester Ave) did speak pursuant to property damage caused by two dead trees and tree limbs from 409 Manchester Avenue. Mr. Frank accompanied Mr. Hoefler and lives at 419 Manchester. If there are strong winds, the top branches go over Mr. Franks house and hit Mr. Hoefler's house causing broken windows and holes in my siding. Mr. Hoefler tried to get a hold of the owner to get the trees taken down. He sent a certified letter, which was returned. The package he sent to the mortgage lender (Biltmore) as also returned. His request to this Board is to have the trees taken down.

Douglas C. Lehman called John Stephens as his first witness.

John Stephens is the Building Commissioner for the City of Wabash and has been employed by the City for a year and a half.

Mr. Stephens was asked what are the duties of the Building Commissioner with respect to dilapidated and abandoned houses. He stated investigate and determine whether they are safe, secure and maintained.

Attorney Lehman directed him to the property at 409 Manchester Avenue and asked if he's had an opportunity to investigate that property. Mr. Stephens responded "yes".

Based on your investigation, have you made any conclusions about the condition of that property. The answer was "yes".

Attorney Lehman asked what conclusions did you reach. Mr. Stephens stated it appears to be vacant, windows are falling out, windows are missing front of the house, the side of the house. The roof is collapsing in the back rear portion of the house. Generally, disrepair and collapsing from lack of maintenance and being open to the weather.

As a result of your investigation, did you cause a Notice to be issued to all parties having a record ownership/interest in the property, notifying them that this property would be considered for demolition as an unsafe building. Mr. Stephens replied "yes".

Attorney Lehman asked Mr. Stephens to identify what he has marked as City Exhibit 1. Mr. Stephens replied it's the Hearing for Notice of Unsafe Building that we mailed out on July 31st.

Attorney Lehman stated prior to mailing out the Notice, did you make an effort to determine who had any interest in that real estate. Mr. Stephens said "yes" and he had a title search done. Attorney Lehman showed City exhibit #2 and asked if he could identify it. Mr. Stephens identified it as the title update/lien research we had done by Metz Title. Lehman asked as a result of that search, who did he (Stephens) issue this Notice to. It was issued to the County auditor, the County Treasurer, the County commissioners, Biltmore and Theresa Hawn; everybody listed in the title search.

Attorney Lehman asked when he issued those Notices, how did he issue them. Mr. Stephens replied by certified mail. Lehman asked if he received responses from regard to those. Mr. Stephens acknowledged he received from the commissioners, auditor and treasurer. Lehman stated it appeared he also sent one to Bank of America and that was confirmed.

Attorney Lehman stated he has what has been marked as City Exhibit 3, which consists of the Notice that you sent, and the same as City Exhibit 1. Mr. Stephens stated "yes". Attorney Lehman said there are a couple of returned envelopes as well as some green sheets. That was affirmed by Mr. Stephens.

At this time, Attorney Lehman asked to offer City Exhibits 1, 2 and 3 for the Board's consideration.

The Board members acknowledged they received and have reviewed City Exhibits 1, 2 and 3.

Attorney Lehman showed City Exhibit 4 to Mr. Stephens and asked him to identify it. Mr. Stephens identified it as the letter Mr. Hoefler put together and mailed to Biltmore, Funding, LLC, in League City, TX, and the one he (Hoefler) said came back. Attorney Lehman asked with the letter were there pictures of the property. Mr. Stephens replied "yes".

Mr. Stephens was asked if he's had an opportunity to both observe the property and the pictures and he said "yes". Lehman asked him if the pictures accurately depict the condition of the property and he said "yes". He was further asked if there are any indications that the photos have been altered, retouched or any way changed so as not to be an accurate depiction of what is out there. Response: "No".

At this time, Attorney Lehman offered City Exhibit 4, after you've (Board) had an opportunity to determine whether or not these are going to be received into evidence, Attorney Lehman was going to proceed to ask Mr. Stephens more questions to elaborate on the pictures.

Mr. Stephens was asked if the premises are substantially vacant at this time to the best of his knowledge. Response: "Yes".

Attorney Lehman asked if the premises have become dilapidated because they've not been maintained or repaired by the owner. Response: "Yes". Specially, what would you point to to show that they are dilapidated. The roof caving in the back and it's collapsing. Windows upstairs are out and windows falling out in the front of the house and being exposed to the weather.

Attorney Lehman asked Mr. Stephens if the building constitutes a fire hazard in your opinion. Response: No.

Does it contribute to blight causing a decrease in property values and discouraging neighbors to make improvements to nearby properties. Response: "Yes".

Are the premises in an impaired structural condition making them unsafe to persons or property. Response: "Yes".

Is the house dangerous to public health. Response: "Yes".

Are they in violation of General Ordinance 2, 1986 because they do not meet the current building and maintenance requirements imposed thereby. Response: "Yes".

Are they not maintained that would allow for human habitation. Response: "No".

In your opinion does the premises constitute a nuisance. Response: "Yes".

Attorney Lehman stated there's been testimony there are a number of dead trees on the property, is that correct. Response: Two large trees. And do they pose a threat or hazard to other people or property. Response: "Yes".

In your (Stephens) opinion, what needs to be done with regard to this property. Mr. Stephens stated to demolish the house and remove the trees. Attorney Lehman asked if that is what he (Stephens) is asking this Board to do. Response: "Yes".

Attorney Lehman indicated he had no further questions for the witness.

The Mayor asked if anyone else has any comments. Lance Frank did speak that he's concerned about the boy's house because every time there's a storm, shingles get busted, holes in the roof and can't justify putting money into it for repairs because it gets tore back up. So every time there's a storm, the house gets damaged. He invited the Board to go to the house to see what he's talking about. He feels the trees should be the priority because the house is coming down regardless. Repairs cannot be done until the trees are taken down.

Greg Metz asked Attorney Lehman if the trees could be treated as a separate issue so the Board can do something quicker? Lehman stated that to the extent you determine this is an emergency, (very much like we did with the Cass and Carroll street issues) yes, you can go ahead and take quotes and move to get the trees removed before they fall on someone else's property or if they were to fall across the sidewalk or the street, then it's an endangerment of the general public.

The Board made specific findings about the condition of the property. The Mayor then ordered the Declaration of Unsafe Property including all structures and real estate, more commonly known as 409 S Manchester Avenue, Wabash, IN as contained in the enforcement authority's notice to owner, dated July 31<sup>st</sup>, is hereby upheld and all of said premises and buildings are hereby declared to be unsafe.

The Property owner shall demolish the structures, remove all debris from and fill all voids on the unsafe premises, not more than 30 days from the date of this Order.

Attorney Lehman recommends that the Board give 30 days to demolish it and I'd recommend that you probably schedule or direct Mr. Stephens to obtain quotes for the demolition to be brought back 30 days from now and if nothing has been done by the property owner, at our second meeting in September, you could go ahead and receive the quotes, direct the ten day Notice to go out and before the end of September we could have the house demolished. In the meantime, I recommend to add a sentence at the bottom of Paragraph 1 finding that the trees on the property constitutes an immediate hazard, declare it an emergency and order that the trees be cut immediately.

The Mayor added the additional language on Paragraph 1, continued to read the Order's findings and it was signed on August 19, 2015.

The Mayor then closed the public hearing.

**HEARING UNSAFE STRUCTURE-1184 Pike Street, Wabash, IN-Owner: Arthur F. Wischman, Jr.**

The Mayor read the Declaration of Unsafe Property.

Attorney Lehman waived opening statement and Mr. Wischman also waived opening statement and for the record stated "no contest" to the proceedings as the house is in bad shape and he agrees the property needs to be torn down.

Attorney Lehman stated in light of Mr. Wischman's statement that he agrees the property should be torn down, Lehman proposed to offer the Notice of Hearing, the title search, the evidence that the Notice was sent out and the various receipts, and the pictures and ask that the Board find that the property does in fact need to be torn down.

Attorney Lehman addressed some questions to Mr. Stephens.

Mr. Stephens is the property substantially vacant. Response: "Yes".

Attorney Lehman asked if the premises have become dilapidated because its not been maintained or repaired by the owner. Response: "Yes"

Attorney Lehman asked Mr. Stephens if the building constitutes a fire hazard in your opinion. Response: No.

Does it contribute to blight causing a decrease in property values and discouraging neighbors to make improvements to nearby properties. Response: "Yes".

Are the premises in an impaired structural condition making them unsafe to persons or property. Response: "Yes".

Is the house dangerous to public health. Response: "Yes".

