# SPECIAL COUNCIL MEETING

A Special Council Meeting was held on August 1, 2016 at 6:00 p.m. with Council President Slavin presiding. Council members present were Mr. Anderson (arrived at 6:05 p.m.), Mr. Sudler (arrived at 6:02 p.m. and departed at 7:48 p.m.), Mr. Neil, Mr. Lewis, Mr. Hosfelt, Mr. Hare, and Mr. Hutchison (arrived at 6:12 p.m.). Mr. Cole was absent.

Council staff members present were Mr. Koenig, Mrs. Townshend, Deputy City Solicitor Pepper, and Mrs. McDowell. Mayor Christiansen was also present (departed at 6:35 p.m.).

## ADOPTION OF AGENDA

Mr. Hare moved for approval of the agenda, seconded by Mr. Hosfelt and unanimously carried.

## PUBLIC HEARINGS - VIOLATIONS OF THE DANGEROUS BUILDING ORDINANCE

Council President Slavin advised members that staff recommended: 1) declaring these buildings and all accessory structures on these properties dangerous; 2) ordering the properties demolished by September 1, 2016 by the owners or equity owners at their own risk; 3) ordering the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) ordering the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners.

Mr. Slavin advised that this was the final step in a long process for these properties. He noted that the vast majority of property owners in the City of Dover never present such problems and, of those that do, the vast majority never let the issues get close to this level. Mr. Slavin indicated that this would be the last moment for these properties and, while he held firmly to the authority that Council has over such issues, he cautioned members of the need to be careful not to vacate the many hours that staff had put into these issues. He stated that in doing so, Council would undermine staff and send signals to problem property owners that they can just wait things out and get a reprieve from Council at the last minute. Mr. Slavin expressed the need to balance these considerations against what members would hear, noting that there are often compelling arguments to take into account with these issues.

### Property Located at 139 Mitscher Road, Owned by Kathy G. Antoniou

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 139 Mitscher Road, owned by Kathy G. Antoniou. Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that there had been six (6) code enforcement cases on the property since 2013, including dilapidated building, abandoned vehicles, and a variety of exterior violations, and the utilities were terminated on July 29, 2015. She indicated that the property was originally registered as vacant in February 2013 and then condemned in May 2015 due to structural damage to the roof. Mrs. Townshend noted that there were outstanding charges of $601.14, $250 of which were the vacant building fee, which was unpaid and had been billed through the tax system.

Mrs. Townshend explained that the property was purchased on October 22, 2015 and the new owner intended to make repairs to the roof. Staff was preparing to bring this property forward with other

dangerous buildings last fall; however, when the property was transferred, staff allowed more time for repair. Mrs. Townshend indicated that a building permit was issued in November and a stop work order was placed on the structure due to work being done that was beyond the scope of the permit. She advised that updated building plans were required in order for staff to issue a permit. Mrs. Townshend noted that no further contact had transpired with the owner and no work had been done. She noted that the structure was completely missing the roof with all of its components and there were no ceilings. Because there was no roof, everything on the inside was deteriorating from water damage, and mold and mildew was present. Mrs. Townshend indicated that the property was in very serious condition and, under the definitions in the code, staff was bringing the property forward as unfit for habitation, general welfare, and code violations, noting that it was also an unoccupied building.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #1)***.

Noting that the building was completely open and unsecured, Mr. Anderson stated that he was surprised that this was not an emergency case and questioned if September 1, 2016 would be too long. Responding, Mrs. Townshend noted that it was a masonry structure and indicated that staff was comfortable with this date.

Mr. Lewis concurred with staff's recommendation and questioned if the City would have a problem recouping funds if the property owner did not pay for demolition. Responding, Mrs. Townshend stated, based on the degree of deterioration, that she expected this demolition would not be as expensive as others. She anticipated asbestos costs to be lower since this property had no roof, noting that asbestos is often found in roofing materials. Mrs. Townshend explained that the City would bill for the demolition and place a lien on the property. If it is not paid, it would go on the taxes and the property would eventually be sold at a sheriff's sale. Mrs. Townshend advised that all of the costs are not always recovered because demolitions are sometimes expensive; however, she expected to recover most of the City's expenses in this case. She explained that if there are no bids at a sheriff's sale, the City typically bids on a property and the City then owns the asset and works to transfer it.

Referring to Page 6 of the presentation, Mr. Sudler expressed concern about the A-frame on the sides of the building, stating that there was no top plate fastened to it and the top seal was rotting. He felt that the building could just collapse in and agreed with Mr. Anderson that this should be an emergency matter, noting that it could collapse when there may be a child or someone else in the area. Mr. Sudler pointed out that there were no rafters or ridge holding it and the wood and beams were deteriorating. The structure was leaning and he felt that a strong wind or good rain could move it off the top seal, causing it to collapse. Mr. Sudler thought that Council should consider more expedient action.

Mrs. Townshend explained that the emergency provision allows staff to bring a matter to Council faster and without the degree of notice. She did not see anything in the code that specifically stated that Council was required to give 30 days, noting that they could provide a week or act immediately. Mrs. Townshend indicated that it would take staff a little time to get the demolition specifications out.

Stating that the City would obviously be tearing the building down, Mr. Hare questioned whether consideration should be given to leaving the accessory structure in tact, noting that it appeared to be almost brand new and was in better shape than the house. He felt that, if the City ends up owning the property, it could be an enticement for someone interested in buying the property. Responding, Mrs. Townshend advised that she would have no objection to leaving the accessory structure.

In response to Mr. Sudler, Mr. Timothy Taraila, Chief Code Enforcement Officer, advised that there were two (2) accessory structures. Mr. Hare noted that the second accessory structure appeared to be in good condition and Mr. Sudler concurred.

In response to Mrs. Townshend, Mr. Taraila advised that he had not been inside the accessory structures. Mr. Hare suggested that the accessory structures remain, if they are in good condition, as they might be an enticement for someone to buy the property.

Council President Slavin declared the public hearing open and, there being no one present wishing to speak, the public hearing was closed.

Mr. Sudler moved to demolish the unit within 10 days, seconded by Mr. Anderson.

Mr. Slavin questioned if Mr. Sudler wished to clarify the motion to allow for staff discretion on the accessory buildings. Responding, Mr. Sudler stated his intent that the two (2) accessory buildings not be included in the demolition and would continue to stand if staff determines that they are sound structures.

Noting that Mr. Anderson and Mr. Sudler felt this was an emergency situation, Mr. Lewis requested clarification on the time frame to demolish the building.

Mr. Slavin clarified that the motion was to accept the recommendation of staff for demolition; however, to set the date 10 days from today and also to leave to staff whether the accessory structures stay or go.

In response to Mr. Lewis, Mr. Pepper stated that the motion was for 10 days but it did not have to be 10 days. He advised that Council was only restricted in the pragmatic sense that it takes some time to get the findings of fact and paperwork done and, if the City were to do the demolition, to bid this out. Mr. Pepper confirmed that the Council would be legally within its rights to set a time for 10 days.

Mr. Hare noted that they would be giving the homeowner 10 days to take the building down on their own and, if they did not, the City would take it down.

**The motion to accept staff's recommendation to: 1) declare this building on this property dangerous, and to defer to the judgment of staff whether the accessory structures are sound and could remain; 2) order the property demolished by August 11, 2016 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of**

**demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner was unanimously carried.**

Property Located at 126 North Ann Avenue, Owned by Musikami Bishogo

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that this property had been considered by Council previously when owned by a different party. After Council took action, the property was transferred and repairs started. She indicated that there have been 23 code enforcement cases for this property since 2011, including a number of abandoned and unregistered vehicles, junk and debris in the yard, numerous grass violations, broken windows, deteriorated siding and gutters, and work occurring on the building without a permit. Mrs. Townshend stated that the utilities were terminated in October 2010, the building was registered as vacant in May 2011, and transferred to the new owner in April 2013. Mrs. Townshend indicated that $1,500 was currently owed in outstanding taxes, noting that $965 of this amount was vacant building charges that had been billed through the tax system and $250 was owed in grass cutting charges.

Mrs. Townshend informed members that the property was currently scheduled for sheriff's sale. She noted that a renovation permit issued in 2012 had been extended numerous times; however, an inspection of the work was never scheduled. Mrs. Townshend indicated that there were expired plumbing and mechanical permits from 2015, also without inspections. She stated that the front gutter was missing, there were tall grass and weeds, and the property had been the subject of a fire a number of years ago. Mrs. Townshend advised that the property was unfit for habitation and met the definitions of general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #2)***.

Council President Slavin declared the public hearing open.

Mr. Steven Smith, Baird Mandalas Brockstedt, LLC, informed members that he was speaking on behalf of the mortgage holder, Ms. Tamika Workmon. He stated that this property had been through quite a bit, noting that Mr. Jesse Workmon, Ms. Workmon's father, had been the owner in 2010 until 2013. Since then, it was sold to Mr. Musikami Bishogo, the current owner, and the property had not been kept up. Mr. Smith advised that, unfortunately, neither Mr. Workmon nor Ms. Workmon were in a position to care for the property between 2013 and the present. He stated that, although it appeared to staff that nothing had been done, from their perspective many things had been done. Mr. Smith indicated that Mr. Workmon passed in early 2015 and Ms. Workmon had been his executrix and heir. Mr. Smith advised that the Workmon's sued Mr. Bishogo in an attempt to either recover the money that he owed them in return for the property that was transferred to him or cause him to transfer the property back to them so they could make it productive again. Mr. Smith informed members that they had not been sitting idly by. In May 2015, they filed with the Justice of the Peace Court and obtained a judgment in the amount of $13,000, despite Mr. Bishogo's vigorous defense, multiple motions to vacate, and multiple return trips to court. He explained that before they could attempt to get the property, that judgment had to be transferred to Superior Court. This was done in early 2016, and they were now finally scheduled for a sheriff's sale on the mortgage on September 1, 2016.

Mr. Smith advised that it had been a long process for them and a longer process for the City. He stated that although he could not justify the condition that the property was in, he could say that his client had already advanced substantial funds, paying him both to pursue Mr. Bishogo and to get control of the property. Mr. Smith indicated that when he gave her what was estimated to be a $50,000 repair bill make the property habitable, Ms. Workmon did not indicate that the amount would be problematic. He explained that she had requested him to relay that she lives in California and it would be difficult for her to travel here; however, she would be present for the sheriff's sale on September 1st and would be happy to accompany the inspectors to the property while she is here from September 2 to September 6, 2016 to evaluate the necessary repairs. Mr. Smith stated that Ms. Workmon wants to repair the property and make it part of the community again.

Mr. Smith expressed their regret about what had happened to the property under the care of Mr. Bishogo, stating that they had done everything they could to compel him to take responsibility for the promises he made to them, and it appeared that he did not make good on his promises to the City either. Mr. Smith requested that the property not be condemned immediately and that they be given a chance, noting that this had been waiting since 2010. Referring to the 23 violations mentioned on the property, he noted that some of them belonged to Mr. Workmon, who was a man in failing health. Mr. Smith expressed his belief that Ms. Workmon was much more vigorous at her age than Mr. Workmon was at his age. He requested additional time for them to come up with a plan to redevelop this property and get it into working order again.

Responding to Mr. Anderson regarding how much time was needed, Mr. Smith explained that one of the great difficulties was that, being a mortgage holder, he cannot go into the property and tell members what it looks like. He advised that he had seen photos that day, which were helpful; however, they were a poor substitute for having an expert on scene to say what is really wrong. Mr. Smith indicated that they would have no problem putting a plan together within a month from when they get into the building; however, how much time that work would take would depend on what they hear. He stated that it was obviously in their best interest to get this done promptly, noting that it did not make any sense for them to have an unproductive property.

In response to Mr. Sudler, Mr. Smith stated that the property owner was Mr. Musikami Bishogo, who was not present at the meeting but whom Mr. Smith had met on several previous occasions. Mr. Smith explained that he continues to be the representative of the note holder, which is the bank. He advised that the bank in this case was also the prior title holder because they represented Mr. Workmon, who passed on after transferring it to Mr. Bishogo. Mr. Smith advised that they now represent Ms. Workmon in finalizing the affairs of her father, so they were with the bank and also the family.

Responding to Mr. Sudler, Mr. Smith stated that they cannot currently enter the unit and until they have access, they cannot have a contractor inspect the unit to estimate the cost.

In response to Mr. Sudler regarding when access was expected, Mr. Smith informed members that being the winning bidder at a sheriff's sale does not mean that one can immediately enter the property; although this can occur. He stated that, generally speaking, it takes a period of time to prepare a deed and have the sheriff sign off on the deed. Mr. Smith advised that once the deed is prepared, signed, and recorded, there can be no question about their rights. He estimated that doing

this legally would take a good 30 days, noting that there would still be the possibility of the Superior Court setting aside the sheriff's sale if there was an inadequate bid. Mr. Smith indicated that he did not expect that to happen in this case, given the overall value of the property, but this was a theoretical possibility. Mr. Smith advised that another theoretical possibility would be Mr. Bishogo declaring bankruptcy before the September 1st sale date, noting that if this happened, the automatic stay would drop and they would be stuck again until they got relief from the automatic stay. Mr. Smith stated that these would be a lot of down sides for the City and his client. He noted that the City would be forced to go in and demolish the structure with the hope of recovering demolition charges, back taxes, and lawn mowing charges on a fresh sale, and he felt that their chances of getting this done as a private citizen might be a little better than the City's.

In response to Mr. Hutchison regarding liens on the property, Mr. Smith stated that he was only aware of their lien and the City's lien. Mrs. Townshend advised that there was also a Kent County tax lien. Responding to Mr. Hutchison regarding the total sum, Mr. Smith stated that their total was $13,000. Mrs. Townshend advised that the City's fees were $1,500; however, she did not have the amount for the County. Responding, Mr. Smith stated his understanding that the County's amount was smaller than the City's.

There being no one else present wishing to speak, Mr. Slavin declared the public hearing closed.

Mr. Hare moved for approval of staff's recommendation for the demolition of the property but to hold the demolition until November 1, 2016, contingent upon the issuance of a certificate of occupancy. Absent those items, the item would not come back to Council but would go forward on the November 1, 2016 action. The motion was seconded by Mr. Sudler.

Mr. Anderson questioned if this would be left to staff's discretion. He felt that a certificate of occupancy seemed highly unlikely because the work would have to be done, in addition to the other things that must be done for a certificate of occupancy, including inspections, etc. Mr. Anderson questioned if the maker of the motion would be open to stating that the work must be completed, as is usually done.

Mr. Sudler stated his belief that, in this situation, all of the work would be approved because there would be a need to get the permit from code enforcement, and staff would then have to do all of the inspections, which would lead up to a certificate of occupancy.

Mrs. Townshend questioned if Mr. Anderson's concern was that this time frame would not provide adequate time to get the certificate of occupancy, since they would not have possession until October 1, 2016. Responding, Mr. Anderson stated that he felt that a certificate of occupancy was a high bar because it would mean that the property must be ready to move in.

Mrs. Townshend explained that a certificate of occupancy is the documentation that a property meets full compliance with the codes and is ready to be occupied. In response to Mr. Sudler, she confirmed that this is when staff inspects a property and states that everything passes and someone can move in.

Mr. Hare stated that, with staff's discretion, he would extend it until March 1, 2017, noting that they would not have the property until October 1, 2016.

Mrs. Townshend questioned if it would be preferable to modify the motion to make it contingent upon the mortgage holder acquiring the property, noting that deference was being given to the mortgage holder. In response, Mr. Hare stated that he preferred to give deference to whoever gets the property. He stated that the mortgage holder would have until March 1, 2017, as would the purchaser at the sheriff's sale, and this information could be relayed at the sheriff's sale.

Referring to Mr. Anderson's comment about a very high bar, Mr. Slavin expressed concern about a very low bar, which would require the residents in that neighborhood to wait until March 1, 2017 for action to take place on a building which staff had already recommended for demolition. He felt that all the add-ons, dates, and everything else that had to be tracked would be complicated. Mr. Slavin indicated that he would support deferring this matter until the next quarterly meeting for an update on the legal status. He indicated that it did not give him great comfort that the person who spoke against demolition was not the property owner. Not wishing to offend Mr. Smith, Mr. Slavin noted that Mr. Smith was not the property owner and there was no guarantee that the property owner would take action or that the property would change hands to the mortgage holder. He believed that members would know who legally owns the property in 90 days.

Mr. Hare withdrew the motion to approve staff's recommendation for the demolition of the property but to hold the demolition until November 1, 2016, contingent upon the issuance of a certificate of occupancy, and that, absent those items, the item would not come back to Council but go forward on the November 1, 2016 action. Mr. Sudler concurred with the withdrawal.

Mr. Neil reminded members that one of staff's concerns had been promises that are made and never kept. He liked the idea of telling the property owner it must be done by November 1, 2016, believing that this would send the owner a sense of urgency.

Mr. Hare explained that he had not been aware that whoever bought it would not have it until October 1, 2016 and he felt that 30 days was probably not enough time.

Mrs. Townshend advised that Council President Slavin's suggestion to defer would allow for consideration at a November meeting. This would give time for the sheriff's sale and a new owner and, at that point, a building permit should be in hand. Mrs. Townshend advised that if Council wished to defer action, there would be more information by November 1, 2016.

**Mr. Anderson moved to defer this item until the Special Council Meeting of November 7, 2016, seconded by Mr. Hosfelt and unanimously carried.**

Property Located at 941 Lincoln Street, Owned by Joe W. Burden, Jr.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised that this property was owned by Dr. Joe W. Burden, Jr., and there had been nine (9) code enforcement cases on the property since 2014, including exterior code violations, a dilapidated shed which had been removed, a number of grass violations, and interior violations. She advised that utilities were terminated in September 2014 and the property was registered as vacant in April 2015.

Mrs. Townshend explained that complaints had been received from people within the community and this property had been reviewed during a walkthrough of Lincoln Park. She advised that the property was condemned as unfit for human habitation on September 11, 2014 due to a number of outstanding code violations and an active renovation permit for the property was currently under review.

Mrs. Townshend indicated that an inspection was done on July 5th or 6th by a City inspector, along with Mr. Greg Scott, a structural engineer with Scott Engineering, Inc. Based on the deficiencies found in that inspection, an inspection report was issued and a permit application was submitted. Mrs. Townshend explained that the permit could not be reviewed because of the "clean hands" ordinance and a clean hands letter was issued on July 20, 2016. Because it was a dangerous building, payment of the charges due against that specific property was required, rather than payment of charges due for all properties owned by the owner. Mrs. Townshend noted that payment was received on Friday, July 29, 2016, and, as of that afternoon, staff was awaiting one (1) remaining sign-off before the permit could be issued. She advised that there was deteriorated fascia and barge board, as well as mold and mildew in the basement, missing interior doors, and damaged interior and exterior doors. Mrs. Townshend stated that the girder header in the basement stairs needed to be replaced, smoke detectors were missing, there were loose or weak floors throughout, an electrical inspection was needed before it could be re-occupied, and there was also standing water in the basement. She advised that the property was being brought forward under the definition of the dangerous buildings ordinance, unfit for habitation, general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #3)***.

Mrs. Townshend explained that a meeting was held on July 22, 2016 that included Councilmen Sudler and Hare; Mr. Scott Koenig, City Manager; Mr. Timothy Taraila, Chief Code Enforcement Officer; Mr. William Pepper, Deputy City Solicitor; Dr. Burden; and herself. She stated that Dr. Burden would like an opportunity to make the repairs and was advised that this would be brought forward to Council during the current meeting. Mrs. Townshend indicated that staff had some reservations because other such buildings had come forward before, noting that Council acted on 742 Slaughter Street last year and now, a year later, the repairs were not quite finished and the property was close to, but not quite, where it needed to be.

Referring to Page 21 of the presentation, Mr. Sudler questioned if the photo was from the basement and if it depicted the girder beam for the floor. Mrs. Townshend confirmed that it was. Mr. Sudler asked if the structural engineering report addressed the girder. Responding, Mrs. Townshend stated that the report did address the girder and that the permit application related to this issue. She stated that these repairs would be subject to inspection, as per the requirements of the report.

Mr. Sudler asked if staff's recommendation reflected the conversation from the July 22, 2016 meeting that Mrs. Townshend referenced. Responding, Mrs. Townshend advised that staff's recommendation was demolition for all of the buildings coming forward in the time frame specified; however, she stated her understanding that Mr. Hare was prepared to make a motion to alter that to provide time for repair.

In response to Mr. Hosfelt, Mrs. Townshend stated that she did not believe that money was owed on this property or that there were any outstanding grass charges. She noted that a vacant building fee had been paid in order for staff to review the permit. Mrs. Townshend confirmed that this was one of the properties that was pointed out by neighbors when a walkthrough of Lincoln Park was conducted. Mr. Hosfelt advised that the walkthrough occurred almost exactly a year ago during the first week in August 2015.

Mr. Slavin declared the public hearing open. There being no one present wishing to speak, he declared the public hearing closed.

Mr. Hare informed members that, during the meeting referenced by Mrs. Townshend, he told Dr. Burden that the City would put a stay on the demolition until November 1, 2016. If the certificate of occupancy was not obtained by November 1, 2016, the demolition would go forward without coming back to Council. Mr. Hare advised Dr. Burden that he did not care if it was 80% complete, if there was no certificate of occupancy, the building would be torn down.

Mr. Hare moved to accept staff's recommendation to demolish the building, but put a stay on the demolition until November 1, 2016. If Dr. Burden does not have a certificate of occupancy by November 1, 2016, the demolition would go forward and would not come back to Council for approval. The motion was seconded by Mr. Sudler.

Mr. Lewis stated that this had been an ongoing issue, and he concurred with staff's recommendation that it be demolished on the date they indicated. He agreed with this part of Mr. Hare's motion, but could not agree with giving this owner an extension because this issue had been ongoing and the City had dealt with Dr. Burden repeatedly in the past.

Mr. Hosfelt noted that the owner of the building was not even present to speak to it, and his history was known. Mr. Hosfelt stated that members were kidding themselves to think that this would be done by November 1, 2016. He indicated that he sided with Mr. Lewis and with staff on this issue and favored moving forward, the sooner the better.

Mr. Hare did not disagree with Councilmen Hosfelt and Lewis; however, he explained that this matter was put very succinctly to Dr. Burden and he had asked for Dr. Burden's word. Mr. Hare advised Dr. Burden that he did not care if the building was 80% completed, if there was no certificate of occupancy by November 1, 2016, the building would go down. He noted that the matter would not come back to Council and members would never hear of this again since there would either be a certificate of occupancy or the building would be torn down.

Mr. Neil agreed with his colleagues that Dr. Burden had not come through; however, he noted that Councilman Hare met with Dr. Burden as part of a group. Mr. Neil expressed his opinion that when you give your word that you are going to do something, you have to follow through and cannot change your word. Mr. Neil indicated that he would support the motion and vote for it, although he felt that Dr. Burden had done the City a great disservice.

Mr. Slavin agreed with Councilman Neil. He indicated that he did not intend to vote in favor of the motion because he never wanted to put Council in the position where his word would have to

become the word of the other people in the room, stating that he was a little wary of a deal that was cut, not in a bad way.

Mr. Hare clarified that there was never a deal; however, it was said that this would be presented to Council. Mr. Sudler also clarified that there was never a deal, only that Dr. Burden gave his word to those present at the July 22, 2016 meeting, but they did not give him their word. Mr. Sudler advised that Dr. Burden was told what could be proposed and that it may or may not occur. Mr. Sudler noted that Dr. Burden gave his word on what he would do, and it would be fine if Council voted another way. Mr. Sudler agreed with Mr. Slavin; however, he indicated that other scenarios and circumstances were discussed during the July 22, 2016 meeting that were not discussed during this hearing. Mr. Sudler felt a lot of it had to do with the fact that Dr. Burden did not know that he had to meet certain requirements to get the permit and he had applied for the permit two (2) weeks prior.

Mr. Hare noted that an inspection was done on July 6, 2016 and Dr. Burden was told it was okay. When he went to get the permit, he was told he could not get the permit because of clean hands, which was stated in a letter. Mr. Hare noted that the inspection report had nothing to do with the letter and that Dr. Burden had indicated that he was going to take care of everything; however, there was still one (1) thing he had not taken care of.

Mrs. Townshend explained that an inspection was performed on July 6, 2016, and the inspection report was part of the code enforcement documents that were available at the July 22, 2016 meeting. The permit application was received on July 7, 2016, and staff went through it and did a clean hands check. Staff had to wait for Mrs. Townshend to return to review this information, because they needed direction on a number of charges and requirements. She noted that there would have been more requirements if the building was not in a dangerous building situation. Mrs. Townshend indicated that staff has 10 business days from the date of application to do a clean hands letter, and it was done within that time.

Mr. Hare noted that those present in the July 22, 2016 meeting read the letter that was received and the permit was denied based on clean hands rather than an inspection. Mrs. Townshend advised that there was a separate letter that documented deficiencies in the structure.

Mr. Sudler felt that Dr. Burden's biggest concern was the two-week delay and that it took so long for the Planning Department to tell him what needed to be done. Mr. Sudler believed that most people do not know what clean hands means and that Dr. Burden was frustrated because he did not know what he needed to pay. Mr. Sudler suggested, when Mrs. Townshend is away in the future, that there be someone in command who could move things forward to avoid being blindsided in situations like this.

Mr. Hare stated that this property and the next property being considered would not be coming back to Council. He stated that Dr. Burden had other properties that would be coming forward, noting that he would not be surprised if there were two (2) or three (3) more properties considered in November. Mr. Hare felt the action taken tonight would be setting up for these other properties. He indicated that if these two (2) properties are not taken care of by November 1, 2016, then Dr. Burden

would not be able to say a word. Mr. Hare stated that Dr. Burden had mentioned something about probate, and that this was the home that Dr. Burden grew up in.

Mrs. Townshend stated that staff had checked with the Kent County Recorder of Wills and the estate was settled in January 2016, so probate was not an issue. She explained that because of the number of properties and the amount of charges, it took staff time to get the charges together. Mrs. Townshend stated that she then reviewed everything with staff, noting that there was not a great delay. She stated that Dr. Burden had received rental and other permits before and was well aware that permits cannot be issued when there are outstanding charges against a property. Mrs. Townshend stated that she did not believe it was correct to say that Dr. Burden was caught off guard by the charges that were due or had to be taken care of before the permits were issued.

Mr. Hutchison stated that he would like Dr. Burden to provide a detailed analysis of what must be done to bring the property at 941 Lincoln Street up to code and the time schedule. If members were looking at a 90-day grace period, he wanted to know how much would be done in the next 30, 60, and 90 days rather than waiting 90 days to find out that nothing had been done. Mr. Hutchison expressed the need to get it done now, and to provide a month to month schedule so members could see something moving forward toward accomplishing the goal.

Mr. Lewis stated, for the record, that he had reservations about giving this property owner an extension because the City had been down this road before. He informed members that, no matter how he voted, he wanted the record to reflect that he concurred wholeheartedly with staff's recommendation.

Responding to Mr. Hutchison, Mr. Hare stated that a structural engineer had started doing minimal work. Although a report could be requested; Mr. Hare felt it might be difficult to obtain. He indicated that the report would be irrelevant on November 1, 2016 since, if there was no certificate of occupancy at that time, the building would come down whether or not a report was provided.

Mr. Sudler asked if Dr. Burden was provided a detailed list of what needed to be paid. In response, Mrs. Townshend explained that the clean hands letter states exactly what needs to be paid and if it is specific to these properties. Mr. Sudler stated that he looked at the letter, which stated that there would be 10 days to appeal clean hands, but he did not see specifics about what needed to be paid. To his recollection, there were more than one (1) or two (2) items that needed to be paid on this property.

Mrs. Townshend advised that Mr. Taraila had worked on the letter and asked if members wanted to address the contents of the clean hands letter. Responding, Mr. Sudler stated that he would like to review the two (2) letters.

Mr. Slavin stated that he had heard no compelling arguments about why Council should not take staff recommendations, noting that there was a problem landlord who continued to come back with excuses on why he did not want to make his properties clean. Mr. Slavin noted that there had been no illness or legal struggle and nothing other than Dr. Burden's unwillingness to comply. Mr. Slavin questioned what benefit there would be to the City in going against staff's recommendation and giving additional time, noting that he had heard no benefit and believed that it would work against the City and the message that members were trying to send to these landlords.

Mr. Hare stated that the benefit related to not just these two (2) properties but every property that Dr. Burden owns. If these two (2) properties were not brought up to code by November 1, 2016, demolition would proceed. Mr. Hare explained that these two (2) properties were only a small portion of the properties Dr. Burden owns. If Dr. Burden had two (2) certificates of occupancy on November 1, 2016, Mr. Hare felt this might indicate that he had turned over a new leaf. If not, on November 1, 2016 there would be two (2) more properties to consider.

Mr. Slavin requested a two-minute recess so that Mr. Taraila could retrieve the letters.

**By unanimous consent, the meeting recessed at 7:00 p.m.**

**By unanimous consent, the meeting reconvened at 7:02 p.m.**

Mrs. Townshend read into the record correspondence from Mrs. Kristen Mullaney, Licensing and Permitting Supervisor, dated July 20, 2016 ***(Exhibit #4)***. In response to Mr. Sudler, Mrs.Townshend advised that this letter was sent out on July 20, 2016.

Noting that Dr. Burden was present, Mr. Sudler questioned if Council should hear from him.

In response to Mr. Slavin, Deputy City Solicitor Pepper stated that reopening the public hearing would be at the pleasure of Council. Mr. Slavin moved to reopen the public hearing. The motion failed for lack of a second.

Mr. Slavin advised that the motion *before members was to accept staff's recommendation and to issue a stay until November 1, 2016, contingent upon issuance of a certificate of occupancy. The motion failed by a roll call vote of four (4) yes (Anderson, Sudler, Hare, and Hutchison), four (4) no (Neil, Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).

Mr. Anderson moved that the property at 941 Lincoln Street be repaired or demolished within 30 days, seconded by Mr. Sudler.

In response to Mr. Slavin, Mrs. Townshend advised that staff's recommendation was to demolish.

Mr. Anderson noted that there was now an active building permit.

**The motion to 1) declare this buildings and all accessory structures on these properties dangerous; 2) order the property repaired or demolished by September 1, 2016 by the owners or equity owners at their own risk; 3) order the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners was carried by a roll call vote of seven (7) yes (Anderson, Sudler, Neil, Lewis, Hosfelt, Hare, and Hutchison), one (1) no (Slavin), and one (1) absent (Cole).**

Property Located at 411 West Reed Street, Owned by Joe W. Burden, Jr.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that there had been eight (8) code enforcement cases on this property since 2013. There had been exterior violations, including overgrowth and weeds, outdoor storage, and broken windows. Mrs. Townshend indicated that utilities were terminated on June 30, 2014 and the City registered the property as vacant in April 2015. It was secured by City staff on August 20, 2014, and condemned as unfit for human occupancy due to insanitary conditions within the home. Mrs. Townshend stated that an active building permit had not been issued; however, a contractor made repairs to the roof, which was one of the required corrections, without a building permit. In addition, the contractor who performed the repairs did not have a City license. Mrs. Townshend advised that the permit was in the Planning Office and could be issued if and when the contractor gets a business license. She noted that the property had damaged wall siding, broken window panes, damaged window frames, and unsanitary conditions inside the home when staff was last there when it was condemned in August of 2014.

Mrs. Townshend advised that staff had only exterior pictures because they had not been permitted access to the interior. She noted that the previous tenants moved out in August 2014 but allowed their dogs to remain. Mrs. Townshend indicated that when the animal control officer went in, the first floor was found to have trash throughout and the flooring was soaked with urine and fecal matter from the animals. She noted that there had been no subsequent interior inspections. Mrs. Townshend reiterated that the hole in the roof had been repaired; however, it had been in place for a period of time, so it was unknown if there was mold, water damage, or structural damage due to those issues.

Mrs. Townshend stated that, based on the dangerous building ordinance, the property fit the definition of unfit for habitation, general welfare, code violations, and unoccupied buildings. She reviewed a presentation depicting the condition of the property ***(Exhibit #5)***.

Mrs. Townshend stated that the conditions that caused the property to be condemned in 2014 were a major issue, noting that staff did not have documentation that those issues had been repaired. She advised members that this property was the subject of discussion during the July 22, 2016 meeting referenced during the discussion of the previous agenda item regarding the property at 941 Lincoln Street, also owned by Dr. Burden. Mrs. Townshend informed members that staff had a building permit in hand and there was a "clean hands" letter that was very similar to that sent in regard to 941 Lincoln Street. She indicated that fees for code enforcement cases totaling $775 were paid on Friday, July 29, 2016.

In response to Mr. Anderson regarding problems with people entering the property, Mrs. Townshend stated that staff had not found the property to be unsecured since August 2014. She advised that it is in an area where there are a lot of people hanging out; however, it is also directly across from a property that is currently in the development phase. Mrs. Townshend felt that this activity should deter that type of entry.

Mr. Slavin declared the public hearing open.

Ms. Altoria Turnage, Dover, questioned what constitutes a building being dangerous. Responding, Mrs. Townshend advised that the Dangerous Building Ordinance in Chapter 22 of the Dover Code

includes definitions in Section 22-381, and the property had a number of circumstances that could create a dangerous building. She explained that definitions include things such as leaning interior walls and damaged floors, and each of these has additional verbiage, such as loads on roofs; fire damage; unfit for habitation; light, air, sanitation; fire escapes, loose parts; general welfare; code violations; drug sales; unoccupied buildings; and incomplete buildings.

Ms. Turnage stated that she was unable to make it for the public hearing for the previous property. She stated that there were several other buildings in the downtown area in the vicinity of 411 West Reed Street that had not only been vacant but visually did not seem very habitable. Ms. Turnage stated that she did not understand why this was an issue with this home and advised that she understood the issue with this home but questioned why there was not code enforcement, visitation from code enforcement officers, or anything of that nature to some of the other vacant properties in that area as well.

Responding, Mrs. Townshend indicated that code enforcement staff inspects vacant properties that are registered, and they also make sure that properties are registered as they become vacant. She explained that staff monitors these things and unless Ms. Turnage provided her specific addresses, she could not indicate whether another property has open violations.

Ms. Turnage stated her belief that there were over 3,000 registered rental properties in Dover. Mrs. Townshend stated that there were over 3,000 rental permits, including standalone homes, apartments, and apartment complexes.

Responding to Ms. Turnage, Mrs. Townshend advised that, when fully staffed, there are a total of five (5) code enforcement officers; however, currently, there are four (4). Ms. Turnage questioned if one (1) of the four (4) was relatively new. Mrs. Townshend indicated that one (1) inspector was relatively new.

Ms. Turnage indicated that she believed he had to be relatively new because the more seasoned officers had just left and because, as of right now, 749 West North Street had been vacant longer than the home currently under consideration. Ms. Turnage advised that, visually, this home was leaning and had broken windows, and last summer the shrubbery had grown so much over the top of the house that there were several complaints to code enforcement about this particular house, but there was no dangerous building sign. She stated that there had not been any inspections on the property at 749 West North Street.

Mrs. Townshend stated that 749 West North Street is a vacant lot. She stated that staff could look at the code enforcement actions on any address that Ms. Turnage had concerns about to make sure that staff was enforcing accordingly. Ms. Turnage stated that she had personally called about this particular house because of the condition of the house, but there had not been anyone there to inspect it visually or, she believed, internally. As far as she knew, this house was owned by the bank. Ms. Turnage noted that this was just one of several homes in the downtown area. She questioned why this particular home was an issue and being brought up now for a dangerous building when some of these other homes had not been inspected. Ms. Turnage stated she knew that the City was short on enforcement officers right now, but she asked how it was that certain homes are still an issue but other homes were not being inspected. Mrs. Townshend stated that she could not say that this was the case, noting that she did not have the code enforcement details on all of the properties

in the City in front of her.

Ms. Turnage felt that Mrs. Townshend could certainly answer the question why some homes were not being inspected. She felt that some homes were being inspected every year but others were being neglected and she questioned why. Mrs. Townshend reiterated that she did not know this to be the case and she deferred to the Council President on that topic because she did not think that was the purpose of the meeting. Mr. Slavin stated that Mrs. Townshend had answered the question to the best of her ability with what she had in front of her and that she would be happy to follow up with Ms. Turnage.

Ms. Turnage stated that there were over 3,000 homes being rented now in Dover and that code enforcement officers were short staffed. She felt that Mrs. Townshend had not really answered the question because certain homes were being inspected more annually as opposed to other homes, and she questioned why. Mr. Slavin stated his belief that Mrs. Townshend had answered that she did not agree with this statement. Responding, Mrs. Turnage stated that this was not an answer but just a statement that Mrs. Townshend did not agree.

Mr. Slavin questioned if there were any other issues Ms. Turnage would like to bring, noting that the issue for the public hearing was if she was opposed to the declaration of this particular address as dangerous. Ms. Turnage stated that she was opposed because this home had been brought up and other homes had not. She stated that other homes definitely looked more dangerous and questioned why this home was being brought up right now when there were other vacant homes in the vicinity that had not been inspected and definitely needed to be.

Mr. Hare questioned why the homes that Ms. Turnage was bringing up had not been inspected. He asked if she had been into the Planning Office to ask. Ms. Turnage responded that she had called the office several times. Mr. Hare questioned if Ms. Turnage knew who owned those properties. In response, Ms. Turnage indicated that she had called and made complaints to the Planning Office several times about this and had talked to Ms. Velvet Bowen, Inspector I, the code enforcement officer. Ms. Turnage stated she had also spoken with Mr. Tim Taraila, Code Enforcement Supervisor, and Mr. Ron Coburn, Inspector II. Mr. Hare asked if Ms. Turnage had records of the dates and times she had called, what staff had told her, and the addresses of the properties. Responding, Ms. Turnage stated that the answer she was given was that they would look into it. Ms. Turnage stated that she had followed up with them.

Mr. Hare suggested that she do this again the next day, but he questioned what she had to say about the property currently being discussed. Ms. Turnage stated that she had the same thing to say that she had said previously.

Mr. Hare stated that this property had been there for a long time, like the previous property, and Council was told the properties would be taken care of. He asked if Ms. Turnage was saying that Council should not act because there was another property that might come up as condemned. Ms. Turnage responded that, reflecting back on this property, permits were being denied when Mrs. Townshend was out of the office for two (2) weeks. She questioned how sufficient repairs could be made if adequate time was not allowed to appeal the decision. Responding to Mr. Hare, Ms. Turnage indicated that this was the first time the property had been brought up since the decease of Mr. Burden, Sr.

In response to Mr. Hare, Ms. Turnage stated that she believed that probate was completed at the beginning of this year. She advised that quite a bit had been done to the property since the beginning of the year. Mr. Hare questioned how quite a bit could have been done since they did not have a permit. Responding, Ms. Turnage advised that they could not clean the inside of the property without a permit; however, they could do the exterior of the house. She stated that a permit was needed for the structural things that must be done to the house; however, Mrs. Townshend had been out of the office and Ms. Turnage was unsure how decisions were being made with her being out of the office.

In response to Mr. Hare, Ms. Turnage indicated that they could have gotten a permit in February, March, April, or May; however, they were still busy doing other properties that Mrs. Townshend had been bringing up. She believed members were aware that there were several properties, some of which need attention and some that did not need as much. Ms. Turnage stated that, with all the properties Dr. Burden has in Dover, a lot had been done since the passing of his father up to this point, noting that these properties are continually being done. She advised that they were just trying to help some of the people in Dover, such as the low-income families that need these homes. She explained that the improvements on these properties had been substantiated, noting that at some point it is what it is. Ms. Turnage stated that she did not agree with the demolition of this property.

Dr. Joe Burden, Jr. informed members that they would like to move forward with this specific house and asked Council to provide them 60 days to make repairs to this home. He indicated that they had started to be proactive and were continuously excited that there had been a move to revitalize this neighborhood. Dr. Burden indicated that, unfortunately, when he drives past that street at 10 or 11:00 at night, it is very busy, noting that he did not think they had anything to do with that. Dr. Burden felt that before getting to houses, there are dangerous streets, which is another whole issue. He advised that they had tried to be proactive and stop this matter from coming to Council. Dr. Burden indicated that on July 6, 2016 they came to get permits for both of the properties, noting that with the normal protocol they hear something within seven (7) days. He believed that he came to the City on July 20, 2016, and he indicated that he called Mr. Tim Taraila, who he normally has correspondence with, regarding the matter. Dr. Burden stated that Mr. Taraila was not aware of his permit, and when Dr. Burden talked to Mrs. Kristen Mullaney, Licensing and Permitting Supervisor, by phone, she was also not aware of it. He came down to the office to speak to Mr. Taraila to find out why he had not heard anything about the permit. Dr. Burden expressed frustration that on June 30, 2016, the day before the July 4th holiday, notices were put on these doors. He stated that he came down the next day and called a structural engineer regarding 941 Lincoln Street and they did a structural engineer report and had Mr. Ron Coburn, Inspector II, do a report.

Dr. Burden indicated that he turned in all of this information and Mr. Greg Scott, the structural engineer, had correspondence with Mr. Coburn and sent emails to the department letting them know that the structural engineering review had been conducted of the property and a girder in the basement needed repair. He noted that they were given instructions on how to appropriately repair the girder, etc. Dr. Burden thought he was being proactive in trying to keep this from coming to Council and felt he had been nothing but proactive in trying to keep things from coming to Council as they arise.

Dr. Burden expressed confusion about the dangerous building ordinances that were printed and given

to him during the meeting on July 22, 2016. Mrs. Townshend advised that they were code enforcement cases.

Dr. Burden questioned if there were exemptions for vacant buildings, noting that there were exemptions when the property was in probate. He stated that he brought down every form that he had ever received in regard to a vacant building and had a conversation with Mrs. Mullaney, asking her to make copies for him. Dr. Burden advised that he had turned in everything and had copies of all of those documents. Dr. Burden advised that he was released from probate January 16, 2016 and advised that it stated on a form that the vacant house ordinance was enforced on March 3, 2015. He noted that he was in probate around that time, explaining that the nine-month probate period started from the time his father passed in October 2014. Dr. Burden questioned how this could be a vacant building if his release was in January 2016. It seemed to him that if the house was vacant for a year, this should come up again in January 2017. Dr. Burden questioned how it was coming up now if he had documentation and copies of the forms that he turned in to Mrs. Mullaney and correspondence with Mr. Coburn in regard to all of those buildings being in probate. He asked how the City could go back beyond a year on the enforcement of the code and hold him accountable for this vacant building violation in response to him trying to proactively obtain a building permit so that he could do the right thing and rehabilitate a facility to help a homeless family in Dover.

Dr. Burden stated that they were proud to announce that they now had several homeless families in the homes that he had previously been down arguing with Council about, sick people from the Dover community. They were in the process of contacting the Delaware State News to do a newspaper article for these people so that they could break the stereotypical perception that their homes are dangerous and just sitting and that they do not proactively want to make repairs to help homeless people. Dr. Burden noted that, just the previous day, on the front page of the Delaware State News, there was an article in regards to the homeless situation in Dover, Delaware, the city that Council and they represent. One of the highlights of the article was that it would be great to be more proactive and supportive of community advocates who are trying to facilitate and advocate for homeless people in the Dover community. Dr. Burden stated that he could understand this if he was ducking and dodging Mrs. Townshend or Mr. Scott Koenig, City Manager, in any manner, but he was not and was being proactive.

Dr. Burden felt that people are not out there when they are working from 9:00 in the morning until 12:00 at night and do not see the blood, sweat, and tears that they put into the house, and they just say that this house or that house is dangerous. In regard to 411 West Reed Street, he asked that they be given 60 days and that members consider that he turned in a permit 14 days before he was informed that he could not receive one. Dr. Burden advised that it was said that if he did not reply by July 14, 2016, this matter would be brought before Council, and he put his paperwork in a whole week prior to that. He noted that normally when he does this, he does not have a problem getting a permit. Dr. Burden stated that he did not hear anything, then came back from New York and found that when he went to his house and property on July 18, 2016, all of these houses had notices on them stating that because he did not comply with making any repairs or was not proactive in repairing the homes, they would be brought before Council. He went down two (2) days later on July 20, 2016 to find out why he did not get anything, noting that no one had told him anything. He felt that if he put a permit in on July 27, 2016 and it was the 18th, and he had a $700 structural engineering report, etc., and the structural engineer met with the City of Dover worker, this was straightforward and he would have no problems repairing the homes. Dr. Burden indicated that the

last thing he wanted to do was to come here tonight, explaining that he had to take off work and drive all the way back to Dover from summer school to be at the meeting to present his case, and this was why he was trying to avoid this whole matter. Dr. Burden stated that it was not that he did not want to repair the homes, reiterating that he tries to be proactive and stating the need to be supportive of landlords and community advocates who are trying to be supportive. He stated that there were people in general who need housing in the Dover area. Dr. Burden asked Council to take all of these matters into consideration and allow them 60 days for the repair of 411 West Reed Street, stating that he had driven down the turnpike as fast as he could to get here, but missed out on consideration of 941 Lincoln Street and would have liked to have had more time for that. Dr. Burden requested, since they were given 30 days for 941 Lincoln Street, that Council allow 60 days so that they would have time to repair both of these facilities as they need to be.

There being no one else present wishing to speak, Council President Slavin declared the public hearing closed.

Mr. Sudler questioned if the City had the right to move forward on buildings when someone is in probate or if it is necessary to wait for the identification of who actually owns these units. Responding, Mr. William Pepper, Deputy City Solicitor, stated that the title to real property passes at the incident of death; however, there is an eight-month period from which creditors can submit claims against the estate. He advised that there is a procedure by which property could be sold to pay debts, but in his experience in 30 years of practice was that this was exceedingly rare. Mr. Pepper indicated that most estates are sufficiently liquid that their real estate does not have to be liquidated to pay debts and that the City has within its police power the ability to enforce its ordinances.

Mr. Anderson noted that vacant building fees were exempt in probate and questioned if that should have been applied to this property. Responding, Mr. Pepper stated that he did not know sufficient details regarding when the vacant building fees were assessed to be able to comment. Mr. Anderson questioned if Mrs. Townshend was able to answer the question. Mr. Slavin stated that he believed that the question being asked was for a legal interpretation for an action that Council had taken and stated that he was going to leave this with the Deputy Solicitor, who needed additional facts before giving that opinion. Mr. Slavin requested Mr. Pepper, upon reviewing those facts, to communicate to Council what his opinion is, stating that he did not want to get into a position of asking a staff member who is not an attorney to interpret.

For clarification, Mr. Anderson asked when the vacant building fee was attached. Responding, Mrs. Townshend stated that she did not have the specific details and was unsure if Mr. Taraila did. She advised that one of the provisions of the exemptions of the vacant building fee is that, if the owner fails to register the property within 30 days of being notified, they may not be entitled to the exception. Mrs. Townshend advised that there could be a number of factors why the exemption was not applied and, without having the specific case details, she could not speak to it.

Mr. Hosfelt moved to follow staff's recommendations in regards to 411 West Reed Street, seconded by Mr. Neil.

Mr. Hare moved to amend the motion to accept staff's recommendation for the demolition of the building, but to stay the demolition until November 1, 2016, contingent upon issuance of a certificate

of occupancy. The motion was seconded by Mr. Anderson.

Mr. Neil stated his understanding that there had not been an agreement per se but a recommendation, which was why he changed his mind and voted to have the building on Lincoln Street demolished. He noted that new members of Council had come in and heard the same story from Dr. Burden, and Mr. Neil voted for Dr. Burden at that time. Mr. Neil stated, however, that each time Dr. Burden comes there is the splitting of hairs, and Mr. Neil stated that Dr. Burden knew all about this and inherited the property from his father. He felt that Dr. Burden was aware of the properties, the problems with the properties, and the problems that the City has with empty and dangerous buildings, and if he was not, Mr. Neil felt he should be. Mr. Neil stated that he believed that Dr. Burden knew about it, had to take care of it, and had not done so. He stated that this was a scar in the City that must be resolved, and the faster the better so the City could make sure that whatever goes up in those areas will be good housing for people, which he stated it was not now. Mr. Neil stated that one of the complaints about the City is dangerous buildings.

Mr. Lewis wanted the record to reflect that he concurred with staff's recommendation.

The motion to amend the original motion in favor of demolition with a stay until November 1, 2016, and contingent upon the issuance of a certificate of occupancy failed by a vote of four (4) yes (Anderson, Sudler, Hare, and Hutchison), four (4) no (Neil, Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).

Mr. Slavin advised that the motion was to accept staff's recommendation for the demolition by September 1, 2016.

Mr. Anderson stated that, on principle, he tended to have a problem with a recommendation to demolish rather than to repair or demolish by the date set, stating that people's property is one of the most sacred constitutional rights. He felt that the building was not an emergency situation or so dangerous that it was a threat to public safety that would require immediate demolition; therefore, unless the motion was to repair or demolish, no matter whose property it was, he would vote against it. In addition, Mr. Anderson noted that, by his count, there had been in the past 16 months approximately a dozen properties downtown that had been brought up and were demolished or repaired, not just Dr. Burden's properties. He stated that there is only a limited budget, so there are a lot of properties that staff are processing. Mr. Anderson wanted to put on the record that it was not any particular property owner that seemed to be targeted, from what he could see.

The motion to accept staff's recommendation to demolish by September 1, 2016 failed by a roll call vote of four (4) yes (Neil, Lewis, Hosfelt, and Mr. Slavin), four (4) no (Anderson, Sudler, Hare, and Hutchison), and one (1) absent (Cole).

Mr. Anderson moved that the property be repaired or demolished by September 30, 2016, seconded by Mr. Sudler.

Mr. Hosfelt questioned if members honestly thought this would happen in 30 days, noting that members had seen the pictures of both the previous property and this property. He stated that they had been like this for years and felt that members were wasting their time.

Responding, Mr. Anderson felt this was not a waste since the property would be repaired or demolished. If it was not repaired, Dr. Burden would need to get it demolished or else the City would. Mr. Anderson felt it was the same effect, one way or another.

Referring to Mr. Hosfelt's comments, Mr. Sudler noted that Dr. Burden had a lot of properties and motion was slow; however, he did see him moving forward. Mr. Sudler stated that he did not think that Council should take the approach of "do we really think", noting that there were a lot of approaches that could be taken in the City. Mr. Sudler questioned if we really think that racism, targeting certain property owners, code enforcement targeting people in this city or other cities, or police brutality were going to stop. Mr. Sudler stated that he was stating this to say that we should not have that type of temperament or attitude.

Mr. Hosfelt stated that they were talking about a problem landlord. In response, Mr. Sudler stated that they could not define it as a problem landlord. Mr. Sudler stated that he was talking about different areas, such as code enforcement and police brutality. He stated that there are a lot of things being in this world that we think will stop, but they are still going on. Mr. Sudler indicated that his comments were not personal toward Mr. Hosfelt because Mr. Hosfelt was a former Chief of Police, but he just did not agree with this type of temperament.

Mr. Hare advised that he would support Mr. Anderson's motion because Dr. Burden gave him his word in the meeting that he would have the work done. Mr. Hare stated that he takes a man's word as his bond until he proves differently.

Mr. Hosfelt stated that this was in the Fourth District, and that they had walked through that neighborhood and made a commitment to the residents to help them and Council was now putting this off. He could not agree with putting off the commitment to all of those residents in support of this. Mr. Hosfelt stated that he had been in the vacant building on numerous occasions, noting this was years ago, and could tell members that it would not be fixed in 30 days. He questioned how they had gotten from a landlord demolishing a vacant building to suddenly talking about police brutality and racism and stated that he would like to know the connection.

Mr. Sudler stated that there were a lot of things that they could look at and think things were going to continue that way. He indicated that this was nothing personal to Mr. Hosfelt, noting that he did not bring up just police brutality, but code enforcement and other areas.

**The motion to 1) declare this buildings and all accessory structures on these properties dangerous; 2) order the property repaired or demolished by September 30, 2016 by the owners or equity owners at their own risk; 3) order the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners was carried by a roll call vote of five (5) yes (Anderson, Sudler, Neil, Hare, and Hutchison), three (3) no (Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).**

Property Located at 528 Bay Road, Owned by Los Paisas LLC

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members

that this property was a commercial building on Bay Road just south of the Route 13 split. She stated that there had been nine (9) code enforcement cases since 2012, including exterior code violations, dilapidated building, and interior and grass violations. Mrs. Townshend indicated that utilities were terminated in May 2013, it was registered as vacant in May 2012, and secured by the City in April 2012. She advised that there were outstanding charges of $4,726 owed in taxes, inclusive of the vacant building fee that had been placed on the tax bill. Mrs. Townshend explained that, in order for anything to happen, an electrical inspection would be required. The exterior surfaces needed to painted and there were damaged soffit and fascia board and a deteriorated roof that was allowing rain to enter the structure. Mrs. Townshend stated that there were damaged doors; numerous broken windows; water damage to the interior wall, ceilings and cooking equipment; and exposed electrical wiring. She indicated that the property met dangerous building definitions, including unfit for habitation, general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #6)***. She noted that this was the former La Tonalteca Restaurant, which had been vacant for quite a while. Mrs. Townshend advised that staff had held this property back a couple of times because it looked like transfer was going to take place; however, she believed that this had fallen through on a number of occasions.

Mr. Slavin declared the public hearing open and, there being no one present wishing to speak, he declared the public hearing closed.

Mr. Lewis moved to proceed with staff's recommendation and demolish this property, seconded by Mr. Hare.

Mr. Anderson advised that, as he had said before, he always votes on the traditional repair or demolish, and for this reason he would be voting no. He indicated that this was not because he did not feel this was a dangerous building

**The motion to accept staff's recommendation to: 1) declare this building on this property dangerous, and to defer to the judgment of staff whether the accessory structures are sound and could remain; 2) order the property demolished by September 1, 2016 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner carried by a roll call vote of six (6) yes (Neil, Lewis, Hosfelt, Hare, Hutchison, and Slavin), one (1) no (Anderson), and one (1) absent (Cole).**

**COUNCIL MEMBERS' ANNOUNCEMENTS**

None.

**Mr. Lewis moved for adjournment, seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 7:53 p.m.

TRACI A. McDOWELL
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Special Meeting of August 1, 2016, are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM
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Exhibits
Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 139 Mitscher Road
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 126 North Ann Avenue
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - 941 Lincoln Street
Exhibit #4 - Correspondence from Mrs. Kristen Mullaney dated July 20, 2016 - Denial of Building Permit #16-1010
Exhibit #5 - Presentation - Violation of Dangerous Building Ordinance - 411 West Reed Street
Exhibit #6 - Presentation - Violation of Dangerous Building Ordinance - 528 Bay Road

**EXHIBIT #1**
Special Council Meeting of August 1, 2016

# Violation of Dangerous Building Ordinance 139 Mitscher Rd

Planning & Inspections Department

Dover, Delaware

August 1, 2016

# 139 Mitscher Rd
# Case History

- 6 code enforcement cases since 2013
  - Exterior code violations – dilapidated buildings
  - Abandoned vehicles
- The utilities were terminated on December 29, 2015
- Registered as vacant on February 4, 2013
- Condemned as unfit for human occupancy on May 6, 2015 due to structural damage to the roof.

Outstanding Charges

- $601.14 in taxes which includes a 1st year vacant building registration fee of $250.00

# Case History

- Property was purchased on October 22, 2015 with the new owner intending to make repairs to the roof.
- Building permit was obtained on November 23, 2015.
- A stop work order was placed on the structure in December due to the amount of work being done to the home which was not listed on the permit.
- Updated building plans were required to submit a new permit.
- No further contact with the owner has occurred and no work has been done to the structure.

# Code violations included but not limited to:

- Completely missing roof with all its components
- No ceilings
- Interior walls, floors, cabinets and such are deteriorating from water damage
- Mold and mildew are forming on wood materials

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*




















CITY OF DOVER


CITY OF DOVER

# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

**EXHIBIT #2**
Special Council Meeting of August 1, 2016

# Violation of Dangerous Building Ordinance 126 N Ann Ave

Planning & Inspections Department

Dover, Delaware

August 1, 2016

# 126 N Ann Ave
# Case History

- 23 code enforcement cases since 2011
  - Abandoned and unregistered vehicles – junk & debris
  - Numerous grass violations – parking on the grass
  - Broken windows – deteriorated siding, gutters
- The utilities were terminated on October 22, 2010
- Registered as vacant by the city on May 31, 2011
- Vacant building registration was transferred to the owner on April 23, 2013

Outstanding Charges

- $1,513.89 in taxes which include $965.00 in vacant building fees and $250.00 in grass cutting charges.
- Currently on the Sheriff sale list

# Code violations included but not limited to:

- Expired renovation permit #12-1707.  The permit was extended numerous times but no inspections have been done.
- Expired plumbing & mechanical permit #15-618.  The permit has expired with no inspections done.
- Missing front gutter
- Tall grass and weeds

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(4) *Fire Damage, etc.*

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*





















# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

**EXHIBIT #3**
Special Council Meeting of August 1, 2016

# Violation of Dangerous Building Ordinance 941 Lincoln St

Planning & Inspections Department

Dover, Delaware

August 1, 2016

# 941 Lincoln St
# Case History

- 9 code enforcement cases since 2014
  - Exterior code violations – dilapidated shed
  - Grass violations – Numerous interior violations
- The utilities were terminated on September 9, 2014
- Registered as vacant by the city on April 6, 2015
- Source of neighbor complaints
- Property was condemned as unfit for human occupancy on September 11, 2014 due to numerous outstanding code violations.
  - Active renovation permit #16-1010

# Code violations included but not limited to:

- Deteriorated fascia/barge board
- Mold & mildew in the basement
- Missing interior doors
- Damaged interior and exterior doors
- Repair and replace the girder, header and basement stairs
- Missing smoke detectors
- Loose/weak floors throughout interior
- An electrical inspection is required
- Standing water in the basement

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*




DANGER
2015/09/08 10:22


2015/09/08 10:22


2015/09/08 10:23


2015/09/08 10:22


2015/09/08 10:23


2016/07/06 10:03


2016/07/06 10:04


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2016/07/06 10:05


2016/07/06 10:05


2016/07/06 10:07


2016/07/06 10:07


2016/07/06 10:22

# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

City of Dover

July 20, 2016

Joe Burden, Jr.
1422 McKee Rd
Dover DE 19904

**Re: Denial of Building Permit #16-1010**

Dear Mr. Burden:

We have received your application for renovations at 941 Lincoln Street. In a review of the City's delinquent list, we determined that you have delinquent payments for the following property:

**Code Enforcement Fees Owed: Case #16-1532 $375.00 & Case #15-877 $300.00**

In accordance with the provisions of *Dover Code, Chapter 1, Sec 1-13. Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings,* the City is unable to approve your permit until such time that all delinquent charges are paid in full. Please contact the Customer Service Department at (302)736-7058 with any questions you may have regarding your bill.

The denial of this permit may be appealed to City Council within 20 days of receipt of this letter. Please contact the City Clerk's Office at (302) 736-7008 or cityclerk@dover.de.us to file an appeal.

Once we have received confirmation that the delinquency has been satisfied, we will process the application.

Sincerely,
Planning Office

Kristen Mullaney
Licensing & Permitting Supervisor

City of Dover

July 20, 2016

Joe Burden, Jr.
1422 McKee Rd
Dover DE 19904

**Re: Denial of Building Permit #16-1009**

Dear Mr. Burden:

We have received your application for roofing at 411 West Reed Street. In a review of the City's delinquent list, we determined that you have delinquent payments for the following property:

**Code Enforcement Fees Owed: Case #16-1117 $375.00 & Case #15-4033 $400.00**

In accordance with the provisions of *Dover Code, Chapter 1, Sec 1-13. Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings,* the City is unable to approve your permit until such time that all delinquent charges are paid in full. Please contact the Customer Service Department at (302)736-7058 with any questions you may have regarding your bill.

The denial of this permit may be appealed to City Council within 20 days of receipt of this letter. Please contact the City Clerk's Office at (302) 736-7008 or cityclerk@dover.de.us to file an appeal.

Once we have received confirmation that the delinquency has been satisfied, we will process the application.

Sincerely,
Planning Office

Kristen Mullaney

Kristen Mullaney
Licensing & Permitting Supervisor

Sec. 1-13. - Clean hands.

(a) *Eligibility to receive city utilities or services.* No person, artificial entity, or owner of a ½ or greater interest in that artificial entity shall be eligible to receive any city services, utilities, permits, licenses, or approvals if that person, artificial entity, or owner of a one-half or greater interest in that artificial entity owes outstanding payments to the city; or if that person, artificial entity, or the owner of a ½ or greater interest in that artificial entity is responsible for documented violations of the Dover Code of Ordinances that have remained unresolved for more than 45 days. If the party, artificial entity, or owner of a ½ or greater interest in that artificial entity requesting city approval is current on some but not all obligations owed to the city, the request shall be denied until such time as the person, artificial entity, or owner of a one-half or greater interest in that artificial entity is current and in compliance with all city obligations.

(b) *Obligations which must be current.* Applicants for city services, utilities, permits, licenses, or approvals shall be current on all of the following obligations to the city, including interest, penalties, court costs, and/or attorney's fees if applicable, prior to receiving such approvals:

(1) Property taxes.

(2) Applicable Delaware realty transfer taxes.

(3) Water, sewer, and electric connection/disconnection, front footage and/or usage charges.

(4) Trash fees.

(5) Application fees.

(6) Permit fees, including building permits, building code and inspection/reinspection fees.

(7) Vacant building fees.

(8) Inspection fees.

(9) Charges for the costs of razing or demolition of buildings done through public expenditure.

(10) Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure.

(11) Assessments for the installation of sewer lines, water mains, sidewalks, and curbing.

(12) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash, or other waste material done through public expenditure.

(13) Miscellaneous charges.

(c)

*Appointment to committee, commission, or board.* Prior to any person being appointed to a city committee, commission, or board, the city clerk will determine if there are outstanding payments due to the city in their name or the name of any artificial entity in which they own ½ or greater interest; or if they are responsible for outstanding, documented violations of the Dover Code of Ordinances that have been unresolved for more than 45 days. If it is determined that such delinquency or violation exists, this shall be reported to the council president and an executive session shall be scheduled to discuss the nature of the delinquency prior to appointment. If an appointed member of a city committee, commission, or board is determined to have such a delinquency or outstanding violation during their appointment, the city clerk shall report such delinquency or violation to the council president and an executive session shall be scheduled to discuss the violation or delinquency. City council may reject an appointment or remove an appointee from a city committee, commission, or board due to such delinquency or violation.

(d) *Responsibility of city personnel.*

(1) The administrative agency to which a request has been submitted shall have the responsibility to make a reasonable effort to determine whether there are outstanding payments or outstanding documented violations of the Dover Code of Ordinances.

(2) The appropriate administrative agency shall notify an applicant that the request cannot be processed because of an outstanding payment or an outstanding documented violation. Said notice shall be in writing and shall be sent within ten working days of receipt of the request.

(e) *Exception.* Notwithstanding the provisions of this section, the building inspector, with the concurrence of the city manager, may issue permits and approvals for work that is necessary to correct violations associated with Chapter 22, Buildings and Building Regulations, Article XI, Dangerous Buildings.

(f) *Appeal of denial of utilities, services or approvals.*

(1) *Appeal to city manager.* Any applicant, person, corporation, or other entity or any owner or member of that corporation or other entity requesting such city services, utilities, permits, licenses, or approvals who receives the aforesaid written denial may appeal that denial to the city manager within 20 calendar days of such denial. The city manager, or his/her designee, shall thereafter hold a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(2) *Appeal to city council.* An applicant aggrieved by the decision of the city manager regarding his/her appeal may appeal such decision to city council within 20 calendar days of such decision. City council shall schedule a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(Code 1981, § 1-13; Ord. of 11-25-2002; Ord. No. 2012-10, 6-25-2012)

**EXHIBIT #5**
Special Council Meeting of August 1, 2016

# Violation of Dangerous Building Ordinance 411 W Reed St

Planning & Inspections Department

Dover, Delaware

August 1, 2016

# 411 W Reed St
# Case History

- 8 code enforcement cases since 2013
  - Exterior code violations – overgrowth/tall weeds
  - Outdoor storage – broken windows
- The utilities were terminated on June 30, 2014
- Registered as vacant by the city on April 6, 2015
- Secured by City Staff on August 20, 2014 and condemned as unfit for human occupancy due to insanitary conditions.
  - Active building permit #16-1009

# Code violations including but not limited to:

- Damaged wall siding
- Broken window panes
- Damaged window frame
- Insanitary conditions within the home. The interior has not been re-inspected since it was condemned in August of 2014. A previous tenant moved out but allowed their dogs to remain in the house. Upon entry with the Animal Control Officer, the first floor was found to have trash throughout and the living room was urine soaked with fecal matter about.

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*



















# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

**EXHIBIT #6**
Special Council Meeting of August 1, 2016

# Violation of Dangerous Building Ordinance 528 Bay Rd

Planning & Inspections Department

Dover, Delaware

August 1, 2016

# 528 Bay Rd
# Case History

- 9 code enforcement cases since 2012
  - Exterior code violations – dilapidated buildings
  - Numerous grass violations – interior violations
- The utilities were terminated on May 21, 2013
- Registered as vacant by the city on May 19, 2012
- Secured by the City on April 19, 2012

Outstanding Charges

- $4,726.87 in taxes, which includes a 4th year vacant building registration fee of $2,000.00

# Code Violations included but not limited to:

- An electrical inspection is required
- Exterior surfaces need to be painted
- Damaged soffit
- Damaged fascia/barge board
- Deteriorated roof which allows rain water into the structure
- Damaged exterior egress doors
- Numerous broken windows
- Water damaged interior wall, ceilings and cooking equipment
- Exposed electrical wiring also damaged from water leaks

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*


528


528


LIENZO CHARRO "LOS TRES POTRILLOS"
ENTRADA
TAQUILLA
CANTINA EL TEJARPA


LA FLOR DE MICHOACA
CANTINA EL TENAMPA
LA ADELITA
TIENDA
DE
ABARROTES
alpura


LA FLOR
AV LA TONALTECA




KORSA








DE MICHOAC


AV LA TONALTECA
LA FLOR DE MICHOA


EXIT
2016/04/19 13:58


2016/04/19 13:59


2016/04/19 14:00

2016/04/19 14:00


2016/04/19 14:01



# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.