

# CITY OF LEWISTON

CITY COUNCIL

DECEMBER 22, 2006

## SPECIAL MEETING HELD IN THE COUNCIL ROOM AT 8:00 A.M.

COUNCIL PRESIDENT RENEE A. BERNIER, PRESIDING.

PRESENT: Councilors Mendros, O'Brien, Jean, Samson, City Administrator James Bennett, and City Clerk Kathleen Montejo. Also present were: City Attorney Martin Eisenstein, Attorney Kevin Beal, Code Enforcement Officer Tom Maynard, Building Inspector Gary Campbell and Fire Chief Paul LeClair.

Pledge of Allegiance to the Flag.

Moment of Silence.

### CONDEMNATION HEARING FOR THE BUILDINGS LOCATED AT 149-155 LISBON STREET, 159-167 LISBON STREET AND 171-177 LISBON STREET

#### **VOTE (1)**

Motion by Councilor O'Brien, seconded by Councilor Samson:

To conduct a hearing to determine if the buildings located at 149 - 155 Lisbon Street, 159-167 Lisbon Street and 171-177 Lisbon Street meet the dangerous building statutes as defined in MRSA Title 17, sec. 2851 et all. Passed - Vote 5-0

City Attorney Martin Eisenstein identified the buildings and explained the state statutes regarding dangerous buildings and condemnations. He noted the Council's role is to determine if the buildings, in their current condition, are unsound, unstable or present a danger to life or property, and need to be removed. Mr. Eisenstein noted he will be taking testimony from Lewiston Building Inspector Gary Campbell, Lewiston Code Enforcement Officer Tom Maynard, Lewiston Fire Chief Paul LeClair and David Murphy, President of Maine Metal Recycling, a demolition company.

Kevin Beal, attorney with Mr. Eisenstein's office, reviewed the material in the Council's packet, such as the Orders of Condemnation, the notices to the property owners, and other materials. He then proceeded to take the testimony of the following speakers:

Gary Campbell, Building Inspector - Mr. Campbell reviewed the length of time he has been with the City, his job duties and description as well as training and certifications. Mr. Campbell then discussed the buildings, noting they are a danger and a hazard and need to be removed immediately and are in eminent danger of collapsing. He noted the buildings are wood and masonry structures and if they collapse, debris could move across Lisbon Street into the buildings across the street. He stated there is nothing holding up the front wall up and a collapse

could happen at anytime. Mr. Campbell expressed concerns about a storm with wind gusts or snowfall, which would add additional weight to the buildings and could collapse the property. He said most of the structures along Lisbon Street built during this time frame are wood structures, not steel. He mentioned concerns about a roof collapsing, noting the third floor could fall into the second floor, which would collapse into the first floor and so on. He also noted there is a common wall between the Kora Temple building and the New England Furniture building and it is only three bricks wide. Mr. Campbell said if the Kora Temple building collapses, it will most likely take the New England Furniture building with it due to the common wall. He also mentioned extensive water damage in the New England Furniture building. Mr. Campbell reiterated that the Kora Temple building and the Cressey building could collapse at anytime, possibly today, and the front of the four story New England Furniture building could go down with it. He said the threat to the New England Furniture building is the Kora Temple building next door and connected to it, and noted if the Kora building comes down, the New England Furniture building will also most likely come down as well, and he noted these buildings are a danger to life and property, and all should come down.

It was noted that inspectors from Thibeault Engineering, hired by Greeley Capital, who were on site yesterday, concur with Mr. Campbell's assessment of the building conditions. It was also noted there is a crack in the wall of the common wall between the Kora building and the New England Furniture building, at the third floor, due to heat damage from the fire. Mr. Campbell stated he feels this crack compromises the structural integrity of the building.

Tom Maynard, Code Enforcement Officer - Mr. Maynard reviewed the length of time he has been with the City, his job duties and description as well as training and certifications. Mr. Maynard stated he did on site inspections yesterday and this morning of the Kora Temple building, the Greeley building, the Cressey building and the New England Furniture building. He took many photos of all of the buildings, both interior and exterior, and described each photograph in detail for the Council. He stated if the buildings were to collapse, the debris could hit the buildings and vehicles on the other side of Lisbon Street, with high velocity due to the height of the buildings, and cause a great deal of additional damage. Mr. Maynard expressed concerns about the weight of snow and ice, if a storm was to occur, and feels the building structures would fail with the additional weight of a snow load and/or ice build-up. He stated that a "pancaking" effect could occur with the roof of the Kora Temple building collapsing down to the top floor, then onto the next floor, and so on. He explained the support walls of the Kora Temple building were damaged as well as roof trusses and load bearing walls to hold up the weight of the roof. Mr. Maynard said that all of the buildings were interdependent structurally.

He also concurred with Mr. Campbell regarding the water damage in the New England Furniture building, noting the sprinklers in the building were set off due to the heat, and he also agreed with the assessment of the structural damage in the common wall regarding the crack in the wall at the third floor level.

Mr. Maynard concluded his remarks by stating that all four buildings - Kora Temple, Cressey, Greeley and New England Furniture - due to their interdependent structures, were unstable, structurally unsafe and a danger to life and/or property, and that he reached these findings via his own observations and with discussions with engineers of the property owners.

Lewiston Fire Chief Paul LeClair - Chief LeClair stated the fire that damaged the buildings began on the evening of Tuesday, December 19. He said the Fire Department received the call at 10:15pm that evening, they were on scene within five minutes, and have been on site ever since. Chief LeClair said the fire fighters entered the buildings at the beginning of the fire for an interior attack, yet within thirty minutes, it was deemed unsafe for the fire fighters to be inside the building and all were removed to outside the building for safety purposes. He noted he and other officers feared for the life and safety of the fire fighters if they fought the fire from inside since it was an unsafe and unpredictable situation that they could not control or gain control of immediately. All of the fire attack was done from outside the buildings. He said it was ordered to shut down the adjacent parking garage, Lisbon Street and Canal Street. The Chief stated that officers from the Police Department and members of the Fire Department have remained on site since the fire, and are still on site for traffic control and not allowing access to the buildings, as well as maintaining a one hundred foot zone away from the buildings for a safety perimeter. He noted that even federal agents from the ATF were not permitted to enter the buildings due to safety and fears of collapse. Chief LeClair stated the buildings are co-dependent upon each other for support and there is a great fear that if one beings to collapse, they all will follow.

The Chief noted that vast amounts of water were used for the fire and there is extensive water damage in all of the properties. He said the Department disbursed water at very high pressure from the fire hoses and water guns, and he believes the high pressure of the water may have contributed to the deterioration of the already weakened building structures. He also expressed concerns about the water turning into ice with the cold temperatures and this also creating additional damage.

Dave Murphy, owner of Maine Metal Recycling (demolition company) - It was noted that Mr. Murphy has thirty plus years in this field and extensive experience with fire damaged demolitions. He said that the timber beams in the buildings would pose the most danger in the demolition work. Mr. Murphy stated he can not demolish the Kora Temple building, Cressey building and Greeley building with out removing the New England Furniture building, since they are all interdependent structures. He noted the risk to personnel during the demolition work is unacceptable and he fears injury to his workers without taking down the New England Furniture building as well. He said the other structures are compromised and the safety risk is unacceptable unless all come down.

At 9:25am, Mr. Eisenstein announced that this last speaker concluded the presentation of evidence. Mr. Eisenstein then reviewed and summarized the basic findings that the buildings are structurally unsound, pose a real danger if collapse, they are at significant risk to collapse and there is a significant risk that the New England Furniture building will collapse if the other buildings are removed. He noted that all speakers suggested demolishing all four buildings at the same time to eliminate danger for life and property and to ensure safety of the workers and public safety personnel. It was noted that no one is pleased with the option of removing all four buildings, but there is a need to do this in order to prevent more damage and danger.

Councilor O'Brien inquired about written statements from the property owners about their willingness to take down their buildings. Mr. Eisenstein said that nothing has been received in writing, but Greeley Capital has stated they are willing to demolish their building. Mr. Eisenstein

noted the Order of Condemnation the Council is asked to adopt, if approved, would be in place to allow the City to demolish the buildings if the owners do not do so, due to the danger to public safety, life and property.

Councilor Mendros inquired about smoke damage to the New England Furniture building. Mr. Campbell confirmed there is water and smoke damage to this property. Councilor Samson inquired about the time table, if the Order is approved, and also asked about the safety zone that is barricaded off, noting the limited access to area businesses at holiday time. Councilor Jean inquired about damage to the buildings from the water, due to the cold temperatures at night. He mentioned the icing that has and will occur. Chief LeClair noted the stability of the buildings will not improve, only deteriorate further due to ice, possible snow, etc. He said there is a need for this very dangerous situation to be stabilized immediately, as early as this afternoon.

At this point, Council President Bernier called for a ten minute recess. The Council recessed at 9:40am and reconvened at 9:50am.

Council President Bernier then opened the floor for public comment. Steven Myers, representing the Tim Corporation and owner of the New England Furniture building, addressed the Council. He inquired about having structural engineers from his insurance company in to inspect the building, noting the insurance coverage is contingent upon their inspection. The Fire Chief said they will make provisions for this. Councilor Mendros then inquired about the city's liability to permit people onto the scene and inside the building. Attorney Eisenstein noted the inspection would be an insurance inspection inside the New England Furniture building at the request of the property owners and they would assume their own liability and the city would have none. Steve Dorsey of Cross Insurance introduced himself and said his company is the insurance agent for Tim Corporation. He said their ultimate goal is also to protect lives and the safety of the city, and they would appreciate an opportunity to have an insurance adjuster look inside the building for one to two hours at the most, with a fire department escort. He reviewed the insurance coverage for this building, noting that there is limited coverage which will not cover undamaged portions of the building and if damage occurs as part of the demolition of the abutting buildings, it will not be covered. Mr. Dorsey expressed the need of the insurance company to look at the building and assess the damage. He also expressed appreciation for the city officials regarding this fire and noted everyone has been fabulous and very professional, and he appreciates their assistance.

Councilor Mendros noted the community fared very well in light of the very dangerous fire situation. Councilor Mendros also remarked that no one spoke against the passage of this Order. Mr. Dorsey then spoke, stating he was speaking on behalf of One Beacon Insurance Company. He did want to express an objection to the Order, and wanted to inquire about an opportunity to brace and reinforce the common wall. He noted he did not want this to interfere with safety and recognized the issue of time. The City Administrator said the city staff will work with Mr. Dorsey and investigate this request, but noted that each passing minute and hour is exposure for the city, knowing this hazardous situation exists. He noted it is a risk management decision and the Order, if approved, is authorization to move forward with demolition, if necessary. Mr. Eisenstein noted the Order would allow the building owner and/or insurance company of the New England Furniture building an opportunity to brace and secure the common wall, if possible.

At this point, Council President Bernier closed the hearing at 10am.

**VOTE (2)**

Motion by Councilor Samson, seconded by Councilor Jean:

To accept the Findings of Fact regarding the buildings at 149 - 155 Lisbon Street, 159 - 167 Lisbon Street and 171 - 177 Lisbon Street to be dangerous buildings as defined by state statutes, to adopt the Orders of Condemnation and to order the corrective action for the property owners which establishes the time frame in which the corrective action must be completed, and to authorize the City Administrator to take necessary actions to implement the corrective action as determined by the Municipal Officers, should the property owners fail to comply with the Council abatement orders. Passed - Vote 5-0

**VOTE (3)**

Motion by Councilor O'Brien, second by Councilor Samson:

To adjourn at 10:05A.M. Passed - Vote 5-0

A true record, Attest:

Kathleen M. Montejo, CMC  
City Clerk  
Lewiston, Maine

*Note: These minutes are not a verbatim transcript of the proceedings of this meeting. A videotape of the entire meeting is available for review upon request.*