



Tupelo License Commission Minutes

Date: 4/14/2022 **Time:** 6:08 pm **Call to Order:** Tony Carroll **Meeting Adjourned:** 7:46 pm

In Attendance

LICENSE COMMISSION MEMBERS:

Randy Hanlon Terri Williams Jay Scruggs Tony Carroll Richard Rhudy
Matt Wiley

CITY OF TUPELO STAFF:

Tanner Newman, Director of Development Services Patrick Reagan, Chief Building Inspector
Ben Logan, City Attorney Stephen Reed, Assistant City Attorney

OTHERS PRESENT:

Jason Shelton Tommy Dabbs Dr. William Simpson Joseph Bonica Kenneth Estes
Rob Harness

Approval of Minutes

Tupelo License Commission Board member Richard Rhudy motioned to approve the minutes of the Tupelo License Commission meeting held on March 22, 2021. Jay Scruggs seconded the motion. The vote was unanimous in favor.

New Business

1. Administrative Decision Appeal – 306-308 N. Spring St

Tony Carroll: We have the Administrative Decision Appeal of 306 & 308 N. Spring St. The applicants of 306 & 308 N. Spring can speak at this point.

Jason Shelton: Thank you. I appreciate the opportunity to be here today. Uh, so for the first time, I was just handed this about 2 minutes ago, and so I'm trying to figure out the information here. Of course, this condemnation occurred March 18th, of this year. The demolition of 306 N. Spring St, which is owned by Dr. Bill Simpson, who is here on the front row. And, um, impacted, perhaps, the building 308 N. Spring St, which is what we are here for today. Immediately upon learning of that, I sent the Mayor, Mr. Newman, Mr. Reagan, Mr. Logan, Mr. Reed, other city officials messages that what's being done is not legal and that the city does not have the authority to do this, you're not following the proper procedures to condemn a building.

Certainly the city has the authority to condemn a building, but the city does not have the authority to just walk up and slap a condemnation sticker on the front door. Which is, essentially, what happened here. There's a few photographs but there was no inspection, certainly no inspection by a qualified individual to perform a structural engineer examination to make a determination that the building is unsafe or unfit for occupancy. So

that was put on the door Friday, the 18th. I immediately alerted the city officials that it was inappropriate and asked for the legal authority of why we are doing this. The following week, uh, they drafted a new condemnation order and stuck it on the door that contained more appropriate language that followed some of the codes that were required. But no additional work was done. It's my understanding that Mr. Reagan took a few photographs on the 18th and then stuck, a not even official placard, a made up placard on the front door. And then came back with official placard the next week.

Now I don't know Mr. Reagan's qualifications, um, he was an employee for a period of time while I was Mayor and he came back recently with, not my understanding, that he is an engineer. I don't know his title now. I have asked repeatedly over the last 30 days for his certifications, for his license, for his background which would give him the expertize to make a determination, especially the determination of a peripheral walk around and take pictures that a building is unsafe for occupancy.

So I asked for all that, in the last 30 minutes, Mr. Logan, the last 45 minutes or so, has sent me a series of emails, like I said, I essentially got this packet 5 minutes ago. I'm trying to work my way thru it. Uh, there was a, uh, about an hour ago, after again, I've made email written FOIA request to the city for the last 30 days, uh, for all these reports, for all this documentation, for all that. I've gotten a bit of communication from Mr. Logan the last 30 days. Um, today, about an hour ago, for the first time, I got an initial report from Mr. Reagan that's handwritten.

I don't, um, you know, that's the first time I've seen it. But, Mr. Doctor Simpson here on the first row, he can speak to it better than I, it's my understanding, he did not receive that either. And so we are here for a couple of different reasons. One, I have an issue with the condemnation itself. The placard that's still, to this day, on the front door, that I submit is not there legally, um, to prohibit a law firm from operating. Mr. Joseph Bonica is here on the front row, representing the law firm, formally my brother's law firm, that is now owned and operated by representative Tommy Reynolds. My interest is essentially a sublease from Dr. Simpson to the law firm. Uh, so that's my first issue with the condemnation itself. I will submit that even though the city has the authority to condemn a building, for example, like Mr. Newman can't just walk up and put, legally, put a condemnation order on the front door of the building. Even though that happened. Uh, and the same thing here, Mr. Reagan is, the City's, from my understanding, the Chief Building Inspector, that's the title. Which is still, what I would submit, you still have to have those qualifications. You can't just get a job title and then all of a sudden be qualified to give an engineering report. And I'll submit those things have not been done.

The city did not provide opportunity of notice that is required. And this gets me to the second point, which is, I'm a little bit behind the 8 ball right now, for the information that has been given in the last hour. Now Dr. Simpson is here and he can speak for himself, I won't speak for him, but the second issue that we are here for is the opportunity to correct the issue itself. But those issues are simply 306 was demolished after some rafter were into the, uh, the brick and mortar on the adjoining wall of 306, and took those out and left some gaps, um, so there are potentially some code violations that are certainly things that needs to be fixed. Those, with the city, we haven't gotten any code violation ticket and didn't mention that we violated the code or anything like that. Uh, so, the fact that there might be a code violation is not one in the same that the building is unsafe for human occupancy in this case, unsafe for this law firm to continue to operate. And so, that again is back to the first issue and the second issue is, the opportunity to fix the problem. The first placard was nothing, the second placard was, that they put on there, contained a stop work order. So not only, did the city put an unlawful condemnation order on the building, they said you can't do any work on the building. Which is nonsensical. I mean, that is just not how it works in America. You can't just take somebody's building and say you can't fix it. There's no possible way that's legal, so again, Mr. Tommy Dabbs is here. I thank him, he came out there Saturday, from my understanding he tried to call Mr. Reagan. He can speak as well. They had some conversations that to my understanding, is that Mr. Reagan told him what his concerns were for the building. And Mr. Dabbs and his son, inspected the building and gave an engineering report on what's fixed and how to

fix it and that type of thing. Work that to my understanding, would take a day, two days max to fix, assuming we can get the materials. You are talking about minor repairs, a little bit of masonry work, uh, a little bit of brason and potentially lowering the brick wall, again, from 306 N. Green St, not 308 N Spring St. The wall, the building on 308 N. Spring St, it is my understanding there are no issues with that. I haven't been, as a matter of fact, I have not been made aware of any issues with the building or that brick at 308. The issue is that the remaining portion of the wall of 306 is higher than 308. What Mr. Newman said, in the newspaper, was that a high wind would snap it off. We've had 30 straight days of high winds and tornados coming thru. So, the issue, the second issue I keep trying to make a point, is does Dr. Simpson have the authority to go out there today and do these repairs?

So, one, uh, in the first issue, the condemnation itself was not lawful. The city did not follow the proper notice of due process, uh, the requirements, and have a structural engineer to inspect the building, uh, so the condemnation itself should be done away with. And the alternative, we need to make sure we can fix it. So, some of the things that Mr. Logan just sent me, uh, I read that to say that not only do we have that authority, but that we've had that authority possibly since March 18th. This order, excuse me, this inspection report, is hand written, I'm assuming by Mr. Reagan that showed up about 5 o'clock this afternoon for the first time, says Dr. Simpson, uh, these are the issues with the building and you just have to get them fixed. Uh, there appears to be an email from Mr. Newman to Dr. Simpson, I believe on March 29th, I'll have to go back and look. Uh, and I think who he refers to as Dr. Phillips, but it's Dr. Simpson. Um, saying based on Mr. Dabbs', uh, report that we submitted, and then made a supplementation, um, March, 29, that you can do the work.

It's my understanding that Mr. Newman and Dr. Simpson have had other conversations, they can both speak to those conversations. But we're here, right at a month after an unlawful condemnation took place of the building and a stop work order was put on the building. Um, and, there's confusion about whether Dr. Simpson can do those repairs.

And, you know, I've done the appeal because familiarity with it and because it's more important that Dr. Simpson has a good working relationship with the mayor and Development Services than it is for me to have a good working relationship with them.

I'm seeing firsthand, for the first time in my life, what it's like to fight city hall. What they say about that, is that's just unfortunate. We need clarification as to, can he make these repairs. If he can make these repairs, I'm not going to say simple, because I'm spending someone else's money, it's as simple as the person out there with the materials to fix it. Like I said, it's going to take a day, day and a half, but now, uh, to get that work. So I hope that makes sense. It's too separate issues. Of all the materials that I've seen, uh, there is nothing, from a qualified individual, that has the license, the certification, the education, the training, um, such as a structural engineer. No one, that I've seen, and they'll have an opportunity to present it, has said that 308 is actually unsafe for occupancy. Uh, so, that's a huge issue. Back to the originally condemnation, and I don't mean to disparage Mr. Reagan, I've known him since I became Mayor, I've had interactions with him, he's got the title of Chief Building Inspector. Um, and that's great. I'm sure the city attorney, or Tanner or Mr. Reagan will say, well I'm the Chief Building Inspector, I'm the Code Official for the city. In the 2018, which my administration adopted for the city, says the Code Official has the authority to these things. Um, I think we need to get further back into that 100 and whatever page document that talks about who the code official is, the requirements, the expertize, the training, the license of that nature. The long and short of it is my appeal is of the condemnation itself. I respectfully request of the committee that you grant my appeal of and overturn the condemnation itself, and let these lawyers and their staff get back in there and work. You've got, uh, around here we talk about second amendment a lot. This brings up the 4th amendment, the 5th amendment, 7th amendment, 8th amendment, 14th amendment of due process rights, illegal taking of a business. Very familiar with eminent domain. Get into all those issues, um, really for no reason. This type thing has never happened

in my lifetime in the city of Tupelo. You don't just stick condemnation orders on businesses in the city of Tupelo, property owners, business owners.

I guess it's okay to pick on the former mayor, but you are also picking on a person that's spending a ton of money to development downtown Tupelo and a law firm and folks who are trying to make a living. Those, that would be my first issue on the appeal, would be to overturn the condemnation itself, because proper procedures were not followed and individual lacked the proper expertise and credentials and, uh, and again no inspection of the building was done. Walking around the outside of the wall by the Chief Building Inspector and walking around the wall and saying "well, that doesn't look good", anybody can do that. That doesn't mean that that leads to a condemnation order on an adjoined building to shut down a law firm that's operating. The other, again, is just the clarification of "Can Dr. Simpson do this work?" The materials that I've been provided the last 30 minutes, indicate that he can do that work and could have done that work since March 29th. And again, give Dr. Simpson the opportunity to speak, um, my understanding, his understanding is that is what we are here to learn tonight. Um, can we fix the building then let these folks get back to work and go about being productive citizens in the City of Tupelo. Um, I don't know the procedures of this hearing. I don't think I've ever sat in on one. I'll be glad to answer any questions, if you have questions of me. Again, Mr. Simpson's here, Mr. Bonica's here, Mr. Dabbs is here if the committee wants to hear from any of them as well.

Tony Carroll: I think we would like to hear an Engineering report, if you've got that.

Jason Shelton: Mr. Dabbs I think if you have a copy.

Joseph Bonica: "I do have a copy. I just have one copy. Do you have a copy of this? I have one copy if anyone wants it."

Jason Shelton: There's the original then we did a supplementation of it. It's in the packet.

Ben Logan: Mr. Chairman, if I may, can I address the Commission?

The, if we can, the city intended to give their report following the appellant coming before the commission tonight, and I think we can work thru some of these documents and kind of clear up what has transpired over time with this building. And then we can review these documents if we need to ask questions. I think that the appellant and the city would be able to ask questions of anybody and that ya'll call upon to do that. Would that be a fair way to go forward?

Jason Shelton: I'll sit down and uh, Dr. Simpson, if you want to address the committee.

Dr. William Simpson: I'm a former Alderman of the city of Okolona. I've experienced many long meetings. And suffered thru many long meetings, so I'll make this short and sweet. I just want to, I'm not sure exactly why I'm here, but I understand it's to get an official stamp on the approval to move forward on the repairs of the building, and that's why I'm here. Any questions?

Tony Carroll: I think we're getting a little bit updated right now on this report.

Ben Logan: Mr. Chairman, the city would like to proceed.

Tony Carroll: Please. Wait just a second. I want to hear everything the appellant has to say. If they have more comments I'd like to hear it.

Joseph Bonica: Thank you. So, Um, sorry to interrupt. Ladies and gentleman, thank you very much for being here. I just want to point out quickly, um, ...

Tanner Newman: Could you introduce yourself?

Joseph Bonica: I'm sorry. My name is Joseph Bonica. Which is B-O-N-I-C-A. Kind of an unusual name. I work for Tommy Reynolds Law Firm. In Charleston, but also purchased the John Shelton Firm, um, recently. And we are leasing 308 and from Mr. Jason Shelton, who is subleasing from Dr. Simpson. So, I believe that we would all have some interest in this. But I would just like to point out Mr. Shelton noted that there were issues with the procedure. And I would like to quickly point out what some of those issues were. You need to have a hearing to determine if the building is unsafe. Not as an appeal hearing as this is but as a hearing attached to the original Notice of Condemnation. It has to be, it has to be held within 10 to 30 days of the posting of any notice. And, if I even go back, such hearing has never been held. It's never been suggested. This is called an appeal, an appeal hearing, but it cannot be an appeal hearing because there was not a hearing to appeal. The rules from the International Building Code, you know, are quite clear on this. And I know to many people, this might now seem important but to attorneys this is extremely important. If we even go back a little bit further, before there's any notice was posted on the door, people with an interest in the building, all of whom were very easy to find, need to be personally served. So there needs to be personal service, there needs to be an initial hearing to determine the state of the building and the accuracy or veracity of the complaint. And none of that was done.

Now, I would personally say that this should not be considered an appeals hearing. I would consider this an extraordinary hearing. The time of giving notice of the original hearing has passed. If you were to ask my opinion, I would say that the original notice was void from the get-go. Because it had to be proceeded by personal notice and it had to be followed quickly by a hearing. Without doing those, those are, that's the heart of the rules. And, um, I just wanted to point out what was supposed to happen. Does anybody have any questions about the rules of hearings, the rules of appeals on, um, from the International Building Code of 2018, which is what Tupelo uses. Or any comments on this. Thank you, I just wanted to point that out.

Tony Carroll: Mr. Logan.

Ben Logan: Thank you, sir. Commission, I believe you have a packet of materials before you, we tried to arrange this in chronological order. And we will try to get thru this with some expediency. I would ask that the city's first speaker, or witness so to say, would be Mr. Tanner Newman, to give the staff summary of the actions that are before you today. We will look thru the packet in order to give you a better idea. I don't know if anybody's gone down there to look at this. I think we have plenty of photographs. I don't want to dispute

my former boss and good friend, but on March 25th he had most of this material. Except things that have been generated since then were sent to Dr. Simpson and to Mayor Shelton in an email. Some of the documents may not have been provided, but those documents do relate to the International Building Code and International Existing Building Code. We'll kinda get into that as why there's a difference there. I think on both of those codes, the building code, which is new construction, and the Existing Building Code is for existing buildings. Both have provisions about imminent danger to a building. And we will talk about that a little bit. It gives a little bit of a different time line than going out and giving 30 days for this or extended periods of time. Mr. Reagan will be able to qualify himself as well as tell you why he made the recommendations that he did on March 18th. So, if we may proceed, I'll call Mr. Newman to give the city's staff summary on this issue.

Tanner Newman: Yes, I would like to start by making two points. One, the condemnation process that was followed here was the same process that was followed for eight years under the Shelton Administration. These condemnation letters, the only difference would be the name and address on the letter or on the placard along with the details of the exact issues with that property. Secondly, I would note that the Tupelo Code of Ordinances in Chapter 7, designates the City of Tupelo Building official as the Director of Development Services and allows the director to allocate those functions to building inspectors or code enforcement officers that they see fit. I want to clear up those two items.

Start from the beginning on how we got here today. In October, the city completed an inspection of 306 N. Spring St. That inspection was conducted by City Building Inspector, Lynda Ford. That will be the first document in front of you, outlining the issues with the property along with photos of the property at that time. That initial inspection and condemnation was issued on October 7th of 2021. A copy of the October 7th condemnation letter, with photos, was properly provided to the property owner at the time. Mr. Shelton initially appealed that Condemnation Order for 306 N. Spring, but ultimately agreed to a continuance. You'll see there is a Contract for the Sale of Real Estate provided in the agenda packet.

Ben Logan: Stop right there for a minute, if you will. Can you give us a little bit more detail on that? The condemnation order of 7 of October 2021- that was for which building? 308 or 306?

Tanner Newman: That was specifically for 306 N. Spring. And we also included the Parcel numbers on there to be clear about that.

Ben Logan: And 306 is the building that has, since, been partially demolished?

Tanner Newman: That's correct.

Ben Logan: Alright. And we've kind of bounced around different codes, the International Building Code. I've mentioned the International Existing Building Code. Was there a different building code that we referenced in October 2021?

Tanner Newman: In October of 2021, the condemnation of 306, you had 2018 International Property Maintenance Code that was referenced in that Condemnation Order. The one for 308 invokes the 2018 International Existing Property Maintenance Code. Both apply.

Ben Logan: That 306 building, was it occupied at the time?

Tanner Newman: 306 was not occupied.

Ben Logan: And did you give the owner of the building a period of time to correct any violations indicated in the Condemnation Order of October 7, 2021?

Tanner Newman: Yes, we did.

Ben Logan: And the photographs, after the condemnation order, looks like 1...2...7 photographs after that. That was the building at 306 N. Spring Street on or before October 7, 2021?

Tanner Newman: There's actually 14 photos. And the 14 photos do represent 306 N. Spring Street prior or on October 7, 2021.

Ben Logan: I stand corrected. I was counting pages.

Tanner Newman: Understood.

Ben Logan: And from that decision of the Code Official, the owner at the time, Mr. Jason Shelton, appealed that matter in the appropriate amount of time, 20 days, under the International Property Maintenance Code to this License Commission.

Tanner Newman: That is correct.

Ben Logan: The next document in the file after those pictures, is a Notice of Call for Special Meeting. We did not have that meeting, uh, Mr. Shelton appealed that meeting. Not appealed, but agreed to we continue that matter. What was the reason for continuing that matter in November 2021?

Tanner Newman: If my recollection, is correct, Mr. Shelton was in the process of selling the property to Dr. Simpson. And the city agreed to the continuance to allow that sell to go thru.

Ben Logan: So you were working with Mr. Shelton at the time so that he could market this property?

Tanner Newman: That is correct.

Ben Logan: The Contract of Sell of Real Estate is the next document. I believe, that Mr. Shelton provided that to us. Do you know when he provided that to us?

Tanner Newman: Mr. Logan, I don't have that exact date in front of me but I do know that the Purchase Agreement was dated November 3, 2021 and it would have been, I believe, sometime between November 3rd and November 30th - which is when the sell was complete.

Ben Logan: Alright. And that outline determines the sale of the property. Was any action taken on the property subsequent to that sell under that agreement? What was the next thing that occurred on 306 N. Spring?

Tanner Newman: On February 1, 2022, CMS Construction applied, with the City of Tupelo, for a Demolition Permit for 306 N. Spring Street. This application was submitted on behalf of Dr. Simpson, who by that point, was/is the owner of 306 and 308 N. Spring.

Ben Logan: And what was the result of that application? What steps had to be taken and what were the results?

Tanner Newman: The applicant submitted the application with the city on February 1st, and the Asbestos Report was submitted to MDQ, Mrs. Lynda Ford, one of our Building Inspectors, assisted the contractor in the process of having MDQ information submitted so that all the proper steps were taken by the contractor and by the city to ultimately issue that demolition permit on February 24, 2022.

Ben Logan: Was there any review by the MS Department of Environmental Quality for asbestos or other contaminant type issues?

Tanner Newman: Yes, we did receive a letter back from MDQ stating that the demolition could proceed.

Ben Logan: And I believe that the next document is the Demolition Permit that was issued to CMS Construction on behalf of Dr. Simpson.

Tanner Newman: That is correct.

Ben Logan: Do you know when the demolition commenced?

Tanner Newman: I do not have the exact date but it would have been, roughly around a week after the permit was issued.

Ben Logan: And these, to this point, these records that we have reviewed are maintained as normal course of business for the city of Tupelo and the conduct of its building inspections and Development Services affairs?

Tanner Newman: That's correct.

Ben Logan: I believe the next involvement we have, I need to talk with Mr. Patrick Reagan. Patrick, there's been some discussion about your qualifications as a Building Inspector. Have you previously worked for the City of Tupelo as a Building Inspector?

Patrick Reagan: Yes. From 2000 to 2016.

Ben Logan: What sort of experience do you have with building inspections or around the construction business?

Patrick Reagan: Well, my experience in construction started when I was about 12 years old. I've worked in construction since then and around it. I obtained a degree from ICC in Engineering Technology. After obtaining that degree, I worked for Tommy Dabbs for a little over 8 years. When I left Mr. Dabbs, I was actually the Office Manager. I assisted Tommy in all realms of engineering, inspections, testing, drawing plans. Started my work with the City of Tupelo as a Building Inspector. I had prior certifications in the Property Maintenance Code and Residential Building Code. That has since lapsed since I left building inspections for about 5 years, those certifications lapsed. Like I said, 16 years and my time with Tommy Dabbs.

Ben Logan: You said you left in 2016. Were you here when the Chief Building Inspector, Mr. David Womack, passed away?

Patrick Reagan: Yes, sir.

Ben Logan: Mr. Shelton was the Mayor at that time?

Patrick Reagan: Yes.

Ben Logan: And were there any questions about your credentials during that time to be a Building Inspector?

Patrick Reagan: No.

Ben Logan: Were any discussions had between you and the former Mayor regarding the open position for David Womack's job?

Patrick Reagan: I don't recall any specifically with the Mayor, but Shane, which was the Director then, offered myself and Jimmy Farnham the position of Chief Building Inspector. Basically at the time, neither one of us wanted it. Jimmy ended up with it. Like I said, I was offered the position, at the time, as Chief Building Inspector.

Ben Logan: And your involvement, I guess your first involvement with 306 N. Spring was?

Patrick Reagan: My first involvement was, I believe, would have actually been on 3/18. Tanner talked to me and said Dr. Simpson called in regards to the stability of the remaining wall of 308- the shared wall. I spoke with the demolition contractor. Went out and did a drive by and noticed, basically there was wall left from 306 that had not been removed. I talked to the demolition contractor and he advised that they left the wall because he did not feel it was safe to remove it without causing additional damage to 308. He felt like if he removed any more of the wall then 308 would collapse. So I talked to Dr. Simpson, I asked if it was alright if went out there and looked at it and he said yeah. I asked if I could go into the building and he said he does not have a problem with that as the owner of the building. As far as I knew, Dr. Simpson was the owner of the building and the only relevant party to this conversation. After the inspection, I noticed, as the pictures will show, serious structural concerns with the building. I don't believe, Mr. Shelton even alluded to this, you can look and see the problems. You don't have to be an engineer to look and see that the building, the wall is leaning. I talked to Dr. Simpson about it and that I did not feel like it was safe for people to be in 308 until that old wall was stabilized. What wasn't being used needed to be removed. The wall stabilized and the building being made back weather-tight. There are holes in the walls, directly into the existing building. You can stand outside and look in and see the framing. I followed up with yourself, Tanner and the Mayor. I felt like we needed to put that in writing that we did not feel it safe to have people in that building.

Ben Logan: We'll get into the pictures in just a moment. I believe this is 308, as I understand it.

Patrick Reagan: Yes, 308 is the building still there.

Ben Logan: 306 went North up Spring Street and adjoined this wall. Are there two separate walls there?

Terri Williams: It's a party-wall.

Patrick Reagan: No. It's more or less a party-wall. The wall from 306, which is the building demolished, adjoined 308 and was a common wall.

Ben Logan: So you had, just as this board here and everything, you had parts of that parapet on 306 which was already much higher?

Patrick Reagan: Yes.

Ben Logan: That overhung the roof of 308.

Patrick Reagan: Yes.

Ben Logan: And these rafters that went thru, you can see where those rafters went thru both buildings here. Partially removed party wall?

Patrick Reagan: Yes.

Ben Logan: Did you prepare an inspection report at that time?

Patrick Reagan: Yes, I did.

Ben Logan: And I believe that you have a copy of that inspection report?

Patrick Reagan: Yes, sir.

Ben Logan: Can you relay, to the Commission, the highlights of that report?

Patrick Reagan: As stated in the report, I believe you all have a copy, that any portion of the wall that was remaining of the 306 building needed to be removed. The portion of the wall that is structurally supporting the remaining building of 308 needed to be made structurally sound. It is not, it does have holes thru it. It's in pretty poor shape. Needed to be made weather-tight. Other two items on the report where just there's some dry wall, basically cleaning up the demolition. Items one and two, I felt like needed to be completed to make the building at 308 safe to occupy.

Ben Logan: Did you placard the building or anything at that time?

Patrick Reagan: I did that.

Ben Logan: There's been some discrepancy or some communication before the Commission that there were two different Condemnation Orders?

Patrick Reagan: Yes. The original placarding was done after business hours on a Friday afternoon. It was a Condemnation Order that was available to me at the time. The following, I'm not sure of the date, the following week, we revised that with a more current Condemnation Order with placard and the building was re-placard with the updated version.

Ben Logan: And is that new placard, the substance of that placard, did it come from the Condemnation Order that is next in the agenda there?

Patrick Reagan: Yes.

Ben Logan: And the placard was provided to the owner of the building at that time, Dr. Simpson.

Patrick Reagan: Yes.

Ben Logan: By email, letter?

Patrick Reagan: Tanner would know that.

Tanner Newman: Email.

Ben Logan: I believe there were two things that were addressed and that being what you just described. Also, what about the further demolition of the building, what did you do regarding that?

Patrick Reagan: I'm not sure I follow.

Ben Logan: Did you place a Stop Work Order on the building?

Patrick Reagan: Yeah, there was a Stop Work Order placed as far as in that condemnation letter.

Ben Logan: I believe in the packet we have a copy of the relevant provisions that were cited in the Condemnation Order, section 113, 115 & 116, I guess 114 as to the Stop Work Order, of the International Existing Building Code. This as to the 306, to put a Stop Work Order on the demolition of 306. What were the code sections that you relied on for 308?

Patrick Reagan: The one that I placard that evening? I placard using Section 115. And I felt like the building was in an imminent threat to the occupants of the building and required immediate action to ensure public safety and the safety of the occupants of the building.

Ben Logan: And on those emergency measures of danger, what sort of period is afforded to those folks that have an occupancy in the building being in imminent danger?

Patrick Reagan: Well, this appeals process. I relayed to Dr. Simpson that if we could get a structural engineers report on the building with a plan of action to make the building back safe and in compliance with, which he provided us with a report from Dabbs Engineering, which I was in agreement with- the plan of action to fix it. I believe he was in agreement with us, the wall was unstable and needed to be stabilized and he had a plan of doing that.

Ben Logan: Looks to be eight pictures you took on March 18th of the building.

Patrick Reagan: Yes.

Ben Logan: I guess the first picture is on the south, facing the North wall, party-wall of 306.

Patrick Reagan: Yes.

Ben Logan: The second photograph, in the packet, is of the Northeast corner of 308?

Patrick Reagan: Yes.

Ben Logan: A setback of the next picture of the wall there, a wider building, and is that 308, in that third picture?

Patrick Reagan: Yes. And the remaining section of the wall is 306.

Ben Logan: Looks like a closer picture of 308 and then finally the Northeast end of the South facing of 306 and finally the north wall of 308.

Patrick Reagan: Yes.

Ben Logan: I believe the next placard, you stated you placed on the building at a later date than March 18th after discussing that with Dr. Simpson. Looks like we have a Notice of Appeal on Friday, April the 8th. A Notice for Hearing for the License Commission and then the Dabbs Engineering Report. Have you reviewed Tommy Dabbs report on the building?

Patrick Reagan: Yes.

Ben Logan: We can certainly ask Mr. Dabbs, the Commission can as well. As far as your assessment of this report, how did it compare with what you were seeing on the building?

Patrick Reagan: It fell in line with what I was seeing. I believe if I followed, it would make the property safe to be occupied.

Ben Logan: Has there been any work done on building since that report came in on March 24th?

Patrick Reagan: Not that I'm aware of.

Ben Logan: Did we get the report on March 24th?

Patrick Reagan: Tanner?

Tanner Newman: We received the Dabbs Engineer Report on March 28th, provided by Mr. Shelton. So 4 days after the report was conducted.

Ben Logan: And did you have any discussions with Dr. Simpson regarding releasing that Stop Work Order in order to make these repairs?

Patrick Reagan: I was asked if I had a problem with releasing the Stop Work Order. Tanner asked me and I said that I did not. I believe Tanner communicated back with Dr. Simpson. I've not had any further communications with Dr. Simpson.

Ben Logan: And has there been any work done on the 306, as it impacts 308 safety since the engineering report or Condemnation Order?

Patrick Reagan: None that I'm aware of.

Ben Logan: Do you know if the occupants continue to work since that time?

Patrick Reagan: I do not.

Ben Logan: Have you made any efforts to go out there and check on that? Run them off if they are?

Patrick Reagan: I have not.

Ben Logan: The last set of pictures, I believe, you didn't take those?

Patrick Reagan: No.

Ben Logan: Mr. Chairman, if I could now address Mr. Newman to finish out.

Tony Carroll: Please do.

Ben Logan: The 4/13 photographs from this week, who took those photos Mr. Newman?

Tanner Newman: The photos taken on 4/13/22, were taken by Mrs. Lynda Ford. One of the city's Building Inspectors.

Ben Logan: And she took these as part of her duties as one of the City Building Inspectors for the City of Tupelo?

Tanner Newman: Yes, sir.

Ben Logan: Do they depict both of these buildings as they currently exist or existed on 4/13/22?

Tanner Newman: That is correct.

Ben Logan: Has there been any work done on the building since the Stop Work Order has been released?

Tanner Newman: These pictures reflect that there has been no work conducted since the Stop Work Order was released.

Ben Logan: Have you been out and observed anyone working there since the Condemnation Order was entered?

Tanner Newman: I have not witnessed anyone working on the property.

Ben Logan: Well as far as anyone working in 308?

Tanner Newman: I have not been out to see.

Ben Logan: Did you communicate with Mr. Shelton, myself, or Dr. Simpson regarding releasing that Stop Work Order?

Tanner Newman: Yes, on March 29th, Dr. Simpson met with myself and the Chief Building Inspector, Patrick Reagan, following our review of the Dabbs Engineering Report and the Stop Work Order was lifted at that time. We made Dr. Simpson aware of that and agreed that the work that was recommended in Mr. Reagan's Inspection Report along with the Engineering Report, which seems to line up, we agreed that that work could take place on the current Demolition Permit that Dr. Simpson or CMS Construction have with the city on 306 N Spring Street. I followed up with Dr. Simpson on April 12th, just to follow up on our conversation. I followed up in an email relaying the same information.

Ben Logan: Mr. Newman, are you familiar with the procedures according, adhering, under the International Existing Building Code, when emergency measures or immanent dangers are present?

Tanner Newman: Yes, sir.

Ben Logan: And what are those?

Tanner Newman: If an emergency is declared by the Building Official and a Condemnation Order or a Stop Work Order is issued, the 2018 International Existing Building Code states that the property owner or tenant has 20 days once they submit an appeal to the License Commission, the city has 20 days to afford that hearing.

Ben Logan: And this hearing here, is conducted under those timelines?

Tanner Newman: That is correct.

Ben Logan: Is it 20 or 14 on the actual hearing? After the appeal is filed, how many days do you have?

Tanner Newman: I believe 20.

Ben Logan: That's all I have for Mr. Newman at this time. I wonder if I can impose on Mr. Tommy Dabbs to talk about his report. Mr. Dabbs, did you conduct a structural engineering inspection and recommendation on 308 or 306 N. Spring Street?

Tommy Dabbs: Let me get where you can hear me.

Ben Logan: I'm sorry. Did you conduct an inspection on 308, what was left of 306 N. Spring Street?

Tommy Dabbs: I did.

Ben Logan: What were your recommendations on that?

Tommy Dabbs: We felt the remaining part of the wall that was demolished needed to be lowered down to the level of the existing structure- 308. For one reason- with it sticking up above, it could break off. As a matter of

fact, there was loose bricks laying on top that could fall off into the street. And we thought take that down and on the inside when the new roof was put on there are some trusses that are sitting on the wall that need to be attached to the wall to keep it from blowing off. There were holes on the side where the joist went thru to the old building. Those need to be patched up, sealed up in some fashion. To my understanding, this building is to be demolished in a couple of years anyways, but we wanted to make it safe enough to use for that period of time. Our opinion is, that if it was taken down to that level, bring the trusses down, fill in the holes on the side, it would be safe to use.

Ben Logan: And you would have no problems with us allowing to remove the Condemnation Order at that point, once the measures were taken?

Tommy Dabbs: That is correct.

Ben Logan: That is all I have.

Jason Shelton: Mr. Carroll, we would have a little bit of a rebuttal. Dr. Simpson and I will speak very briefly.

Tony Carroll: Okay, you've got five minutes.

Dr. William Simpson: This is not a rebuttal. I just want to be sure everything is clear. If I follow the engineering report repairing this building, I have the okay to go ahead with the repairs?

Tanner Newman: As relayed in the email, the city has removed the Stop Work Order to allow these repairs to be made and once those repairs are made, then a follow up inspection would occur. Which is standard operating procedure. And at that time, if all the items that have been laid out that need to occur, if they've occurred and the building is found to be structurally safe, then yes, the Condemnation Order would be removed.

Dr. William Simpson: Okay. Thank you.

Tony Carroll: Is that your plans?

Dr. William Simpson: Yes. Does anyone have any questions about the building while I'm here?

Terri Williams: I do. I have one for Tommy, if I may. Tommy, when was the building built?

Tommy Dabbs: When was it built? I don't know.

Terri Williams: Is it a wood frame building or a masonry building that was built using, say you have joist and you have...Am I fair to say what you've given is an observation report verses a specific structural evaluation report?

Tommy Dabbs: It was a visual observation report.

Dr. William Simpson: That type of construction ended around 1940.

Terri Williams: I understand. I'm familiar with that type of construction and also, unfortunately, the mortar is not superglue.

Dr. William Simpson: It's not the brick. It's the mortar.

Terri Williams: No sir. I'm afraid I'm out of order here in terms of my opinion here. I'm very concerned about the safety of the building and that's just the bottom line. Because the winds that came, so far haven't turned it down. There's not a lot of structural. And Tommy, I understand an observation. But when you are looking at whether you have the proper ties and mortar that's missing throughout a brick veneer, and that brick is supposed to be built, I guess its 2 brick width....

Dr. William Simpson: Three brick.

Terri Williams: Is it three?

Dr. William Simpson: It's three. Until it gets to the original roof line of 308. When they built 306, they put one single on top, but three brick underneath it. That three brick construction is fairly strong.

Terri Williams: I understand what you are saying, but during an observation report, you don't necessarily observe the structural mortar between the brick. And you don't have any reinforcement of the building in that time frame within that structure, so literally it's just the tothing in and out of the brick. Am I right Tommy?

Tommy Dabbs: Yes.

Terri Williams: So you also have areas that block has been placed instead of brick and it's stacked bond, which really is not a structural-tight wall.

Dr. William Simpson: Block is not used in 306, it's at the back of the 308 building.

Terri Williams: Anyway, I'm concerned about the structural integrity of the building. And I would say, I have no problem with Tommy's observation, but I do not feel comfortable with an observation in order to allow a Certificate of Occupancy to be issued. That just comes from a safety concern.

Tommy Dabbs: I feel like if they could tear the brick off down to that level without tearing the whole thing up, it would be alright.

Terri Williams: Okay, all I'm saying is I know there's different tests and things you can look at but because of the age, I would question it.

Tony Carroll: Mr. Dabbs, is there a way to verify the strength of that wall? Is there a way to verify what she's talking about?

Tommy Dabbs: It would be difficult to see the mortar between the walls. I assume that's what she's talking about.

Terri Williams: Are you certain the mortar on the interior hasn't eroded as well?

Tommy Dabbs: No, I'm not.

Terri Williams: Because you do have areas that you had water issues that over time has eroded that. That's all I'm saying. I think there possibly needs to be some additional...

Tommy Dabbs: It would be real difficult to do any kind of scientific testing on it. Most of its going to be observation testing.

Terri Williams: So you would be willing to issue a Certificate of Responsibility on the safety of it? I mean, we can't issue it relative to two years occupancy. We have to say whether it's safe or not. I think that would be the concern.

Jason Shelton: I was not aware, Ms. Williams, of any of those issues were on the appeal today. Mr. Dabbs and his son, who is a structural engineer, both inspected the building and we are prepared to go forward with the issues before this committee and that I don't think is one of them. But, just briefly, I think this entire hearing could have been avoided had it ever been communicated clearly, I appreciate Mr. Newman saying he has worked with me. I have not been under that impression since he got this position. But had Dr. Simpson been made aware, clearly, that he could make these repairs and that Mr. Dabbs' report was accepted by Mr. Reagan and Mr. Newman, I think that would have really eliminated the need to be here to begin with. Not to argue with Mr. Logan, I went back on my phone and looked at the emails from March 25th, the documents I received today were not on the email from March 25th. I got those just a few minutes ago. In conclusion, back to my original point. I think it's clear the notice, the original condemnation, did not report with the legal requirements. Again, not to disparage Mr. Reagan, but he admitted he doesn't have any license to qualify him to make that condemnation ruling. With that, I respectfully request the appeal be granted but in the alternative just that Dr. Simpson be allowed to go forward with the repairs in accordance with Mr. Dabbs' report.

Tony Carroll: We have, what looks like a workable solution. It's going to be up to the Board. Do y'all want to have a discussion? Do y'all want to have a closed meeting? Y'all want to go ahead and vote on this and get it over with?

Jay Scruggs: I don't have professional knowledge of it, but I think it's pretty clear what Ms. Williams stated. I have some concerns about somebody using the building. So Jason, I guess my point is, as much as I respect Mr. Dabbs, Ms. Williams, you don't fully agree with Mr. Dabbs.

Terri Williams: Actually, I agree with Mr. Dabbs' report as an observation. I know for a fact that an evaluation report cost more. So I know that you can observe and you can, from your observation, say what's needed. But if you are issuing a Certificate of Occupancy, that's another step. And in my mind, that takes more deliberation.

Tommy Dabbs: Would you feel better about getting another opinion?

Terri Williams: Not necessarily. I'm just saying unless you would stamp this building as great, ok, let's go. See, that's what I'm saying.

Tommy Dabbs: I don't think you would find anybody who would do that.

Terri Williams: Yes, sir. I think that the city has put itself in a position of the responsibility of the occupants in that building as well as the owner. So as an owner, or in this position, would say I would like to have further information to feel that it was safe. That's all I'm saying. All of this is good. But I know when I have researched buildings of this type, I have literally gone in and been able to take my finger and move the mortar out of the joints on the interior wall as well as the outside. I just cannot see it. I'm not qualified to look at it, but I know you are. It's something you said, Jason, Mr. Shelton, was that it would be safe and in my mind I don't know that that's what Tommy is saying. He's saying, "more comfortable level of stability".

Jason Shelton: If I may respond, Ms. Williams. I know you're eminently qualified. Again, your concern is not an issue with this appeal. What I understand, Mr. Reagan, Mr. Newman, Mr. Logan, Mr. Dabbs, Dr. Simpson and the occupants of the building, what I hear, we're all on the same page as going forward. Had we known that before we got here, there wouldn't be a need to be here. Again, with respect for the request to be allowed to fix the building, the city will re-inspection it and if there is an issue, I know they will find it.

Tony Carroll: I think Ms. Williams brought up a good point. It might desire a way to find some verification on some of these things. If it's a workable solution to do the repairs and find some way to verify the integrity of the wall. I don't think you'll find anybody who would come along and say this building is safe. I think they're going to say it needs to meet certain standards. I think would be the only option you've got there.

Tanner Newman: Could I say just a couple of things on behalf of the city? One, I want to be clear that Mr. Reagan is extremely qualified and was qualified enough to serve as an inspector under the former administration. I would like to note that the, as far as any question of the city's legal ability to conduct the condemnation the way it was conducted is clearly laid out here in section 116 of the 2018 International Existing Building Code. Those guidelines were followed to a T and would ask that the Commission uphold the condemnation of 308 N. Spring, with the understanding that the Stop Work Order on 306 was lifted on March 29th. Which does allow the contractor to proceed with attempting to stabilize the wall, remaining wall, and once that work is complete, the city will once again inspect the property and if the property passes that inspection, the Condemnation Order will be lifted.

Tony Carroll: Okay. That sounds like a request. I will accept a motion to accept that request or deny that request.

Jay Scruggs: I second the motion to accept it.

Tony Carroll: You have a motion to accept it? Is that a motion to accept it?

Richard Rhudy: I second.

Tony Carroll: Is there further discussion on that? Ms. Williams, you've got more information than we can use.

Jay Scruggs: What kind of time line? What's a reasonable kind of time?

Dr. William Simpson: If I know that we, if I have the go ahead, I will call a contractor tonight or in the morning. And, you know. I can't speak for them, what the environment now when it comes to building. I will work as quickly as possible to get it done.

Tony Carroll: So, as I understand the motion, the motion is to uphold the city's position on this but that allows them to go ahead and make corrections. Is that what I'm understanding?

Tanner Newman: Yes, it is.

Jay Scruggs: Then the city will reevaluate.

Tony Carroll: Okay. All in favor? All opposed? Motion Carries. Go forth and do well.

The vote to uphold the city's position was unanimous in favor.

2. Request for Electrical Code Update

Tony Carroll: Let's go back to order here. We'll talk about the request to use 14 gage wire. Kenneth and Rob, you got presentation material for us?

Jay Scruggs: I think everybody here is educated. I think you have a point you would like to make.

Tony Carroll: I just brought some information is all.

Jay Scruggs: Basically, on an average 2500 square foot house, his cost analysis, not talking about labor. I feel that should be a difference in labor price. The cost would be \$250-\$300 top, on that size home.

Tony Carroll: Difference in cost of the wire only.

Jay Scruggs: Yes.

Tony Carroll: I did talk to some professionals. I talked to three professional people and got different comments from all of them. One was an electrical engineer and he was like point blank no, do not change it. And he gave a whole bunch of reasons that made good sense. I talked to a City Inspector from another city and he said it's allowed in their city. No problem with. It works just fine where they are. The electrical engineer from North Carolina, Dr. Ford, said yes he thinks it's a doable situation but that he would not be for it in general. He would like to see it be engineered from the beginning for that. That's all the comments I've got. I'm ready to hear what y'all have to talk about. We want to do what's best for everybody.

Kenneth Estes: I've made multiple phone calls to different builders across the country and across Mississippi and almost every municipality that has a Code Enforcement Department allows for it. 100 percent of the building code is minimum code. It's not maximum, its minimum allowed to build a structure. And the International Electrical Code allows for it. That's the argument. In today's climate, with cost at a constant rise, any dollar you can save on a house, might allow a homeowner to purchase that house.

Tony Carroll: Have y'all found a way to spend less than \$40,000 on counter tops?

Kenneth Estes: That's home owner's choice. We are not saying that every electrician or building will use it. But we should be able to use it since the code allows it.

Jay Scruggs: Does everybody feel educated? I think everybody has already made up their mind one way or the other.

Tony Carroll: Let me ask a few questions. I'm not going to put anybody on the spot. Ms. Williams, do you have any thoughts on this? Or the electrical guy here?

Richard Rhudy: I'm an electrical contractor. I've been licensed for 30 years. I'm licensed in several states. In this area right here, this is the easiest place in the world to work, when it comes to code. My opinion, I'm all for saving money, but the risks outweigh the savings.

Jay Scruggs: We are the only municipality who doesn't allow it.

Kenneth Estes: If we're truly worried about what someone might come in and do later, we as a building unit need to stop all the non-licensed work.

Tony Carroll: Are we ready to vote?

Tanner Newman: Before y'all vote, I want to say one thing. Tupelo is a great place to build and work and the fact that we are all able to seat here together and have this conversation regardless of which way the vote goes, we're all going to be friends afterwards. We will all continue working together. So, I want to just say thank you to Kenneth and Rob for bringing the issue forward and initiating the conversation. And I want to thank the Commission for your service. However y'all decide to go on this thing, I appreciate all of you and we are going to continue making Tupelo an even greater place to live, work, and raise a family.

Tony Carroll: This is a good opportunity for all of us to improve our city. I will accept a motion one way or another.

Jay Scruggs: I'm going to make a motion to accept 14 gage wire for lighting circuits and switch legs.

Tony Carroll: Okay, we have a motion. Does anybody agree with that and second? If no one will motion second, motion died.

Tanner Newman: Motion died. If anyone would like to make another motion, now would be the time.

Tony Carroll: Any other motions?

Tony Carroll: Okay.

Kenneth Estes: I appreciate all of y'all's time. Y'all have given your time to do this and I appreciate y'all to serve on this board and to help change things here in the City. You've given time you could be doing something else.

Tony Carroll: Let's pick another issue and we'll work on it next week. Meeting adjourned.

Announcements

None

Next Meeting

Next meeting will be held when ordered by the Mayor or Chairman.