

TOWN OF ORLEANS – BOARD OF HEALTH

MINUTES OF SPECIAL MEETING

January 13, 2011

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TOWN OF ORLEANS
TOWN CLERK'S OFFICE

A special meeting of the Board of Health was convened at 1:30 p.m. on Thursday, January 13, 2011 in the Skat Meeting Room of the Orleans Town Hall. This special meeting was a Housing Code Enforcement Hearing regarding 33 Eli Rogers Road.

Present: Chairman, Job Taylor, III, Vice Chair Augusta McKusick, Jan Schneider, M.D., Robin Davis, Ph.D. and Elizabeth Suraci. Also present: Robert Canning, Health Agent.

Tenants: Robert McAdams and Lorraina McAdams

Present for the Owner: Tim Aselton, Property Caretaker; and Attorney Christopher Ward, Latanzi, Spaulding, and Landreth

Agenda Item 1 – Housing Code Enforcement – 33 Eli Rogers Road

Mr. Canning announced that this is a Housing Code Enforcement hearing being conducted under Chapter II of the State Housing Code. He read into the record a synopsis of events regarding this property as follows:

- July 19, 2010 – Robert McAdams, tenant, called the Health Department to complain that he has no hot water and that there is a water leak in the hot water tank in the unit at 33 Eli Rogers Road
- July 20, 2010 – Health Department conducted a Housing Inspection
- July 22, 2010 – Health Department issued housing correction order to George Albert, the owner of 33 Eli Rogers Road to remediate several violations at 33 Eli Rogers Road
- July 22, 2010 – Health Department issued a housing correction order to the tenant to remediate violations of Chapter II (Housing Code) and abate a nuisance.
- July 28, 2010 – Owner stated that he will not be making any repairs at 33 Eli Rogers Road. He is not being paid any rent and will not make repairs.
- July 29, 2010 – Health Department conducted a re-inspection of the unit with the Building Commissioner and the Fire Captain to assess the smoke/CO units, propane heater, and stairway safety. Correction orders issued by Building Department (July 29, 2010) and Fire Department (August 2, 2010)
- August 12, 2010 – Based on the owner's statements that he will not comply with the July 22, 2010 order, the Board of Health voted to turn the matter over to Town Counsel.
- August 27, 2010 – Health Department conducted a re-inspection and observed that the hot water heater has been satisfactorily repaired.
- September 20, 2010 – Health Department received a written request from Mr. Albert, for an extension to make the remaining required repairs at 33 Eli Rogers Road
- October 4, 2010 – Health Department conducted a re-inspection and noted additional repairs had been completed.
- October 7, 2010 – Board of Health Hearing. The Board voted to give the owner 30 days to fix all health and safety items and 90 days to repair all other items. This order was issued on October 12, 2010.
- October 14, 2010 – Order issued to tenant to repair the handrail, bottom step of staircase, and screen on kitchen door, all of which had been altered or removed by the tenant.
- December 1, 2010 – Re-inspection of dwelling to determine compliance with the decision of the Board of Health requiring that all health and safety items be repaired by November 6th. Several items had not been addressed.

- December 1, 2010 – During re-inspection there was no hot water. Per tenant hot water heater ruptured on November 23, 2010 flooding the lower level, no hot water since. Order issued to owner.
- December 2, 2010 – Health Department conducted an inspection upon report from tenant that there is no potable water supply to the dwelling. Confirmed during inspection (12:00N) order issued to owner.
- **December 2, 2010** – Owner called Health Department to report that the water/hot water issues were being addressed immediately. During this conversation the owner stated that the property caretaker has been attempting to contact the tenant regarding the required repairs of the hot water, but he was unable to get a response and was unable to gain access for the necessary repairs.
- **December 3, 2010** – Order sent to tenant regarding the tenant's responsibility to allow access to the owner to make the necessary repairs to the dwelling. This order was issued Certified Mail, RRR; the Order was returned to Health Department as undelivered on December 15, 2010. Health Department re-mailed order to previous address on December 17, 2010, and posted it on the dwelling on December 22, 2010. (Tenant acknowledged receipt via telephone message on December 23, 2010)
- December 3, 2010 – Health Department confirmed via inspection that the water and hot water supply had been restored to the dwelling.
- December 6, 2010 – Follow up letter sent to owner regarding outstanding issues.
- **December 21, 2010** – during a telephone conversation with the owner he notified the Health Department that the caretaker and/or other contractors have been denied access to the site (costing the owner money and not getting any of the work done).
- **December 22, 2010** – The property owner called the Health Department to inform them that the caretaker went to the dwelling yesterday to do some work and the tenant would not let him in.
- **December 22, 2010** – Health Department posted the December 3, 2010 order to the tenant requiring access be granted to the owner/agent for the purposes of making required repairs.
- **December 23, 2010** – Health Department received a voice mail from tenant stating that he received the December 3, 2010 order and felt it was posted in error. Requested that the Health Department call him. Health Department returned call to tenant on December 23, 2010 (twice); no answer, left messages.
- **December 29, 2010** – Health Department received a phone call from Orleans Police Department requesting clarification of issues at 33 Eli Rogers Rd. She had received a request from the property caretaker for assistance getting into the dwelling for repairs. Health Department then received a call from the caretaker stating that he was unable to gain entry for repairs after he had left a note at the door of the dwelling on December 28, 2010 giving the tenants 24 hours notice regarding repairs. He stated that he left the notice after he was unable to reach the tenants by phone.
- **December 29, 2010** – A second notice to the tenants to allow access for repairs was posted on the dwelling. The Health Department observed that the caretaker's card was also at the door.
- **January 4, 2011** – Health Department conducted a site visit to in an attempt to discuss with the tenant his responsibility to allow access to the owner to make the necessary repairs. No one answered the door. Left card with message for tenant to call the Health Department. Returned to the office and left a telephone message for McAdams to call the Health Department.
- **January 5, 2011** – Mr. Canning left message for tenant (1:30pm)
- **January 5, 2011** – (6:37 p.m.) Tenant left message for Health Department acknowledging that he received notices (December 22nd & December 29th). He explained that there have been health related issues with he and his wife that had caused them to be confined to the dwelling. He stated that he discussed with the caretaker the need to postpone the repairs until after the holidays and that the caretaker was OK with this arrangement.
- **January 6, 2011** – The Board of Health reviewed the status of the Housing correction orders at 33 Eli Rogers Road. Based on the number of telephone calls received stating that the tenant is not making the unit available for repairs the Board of Health voted to hold a hearing regarding the December 3, 2010 and December 29, 2010 orders to the tenant.
- **January 7, 2011** – Hearing notifications were given to the tenant and owner.

Mr. McAdams agreed that Mr. Canning's synopsis was accurate.

Attorney Taylor discussed the fact that Mr. McAdams repeatedly returned phone calls to the Health Department well after normal business hours.

Mr. McAdams explained further that because he and his wife had been ill they were unaware that anyone had come to the house to make repairs (Mr. Aselton) or to discuss issues with the Health Department agents. Attorney Taylor expounded on the fact that the owner (Mr. Albert) is under order to make repairs to the property but his agent (Mr. Aselton) has not been allowed access to the house to make those repairs because Mr. McAdams has refused him entry on several occasions. This is in violation of the tenants' responsibility under Chapter II of the State Housing Code.

Mr. Tim Aselton (property caretaker and owner's agent) explained that initially he had been unable to reach Mr. McAdams to obtain access to the house to make repairs. He gave details that he had made several trips, with a carpenter, to the property, but was not acknowledged when he tried to gain entry.

Dr. Schneider asked for clarification of just when Mr. Aselton had last spoken with Mr. McAdams to make arrangements to make the repairs. Mr. Aselton affirmed that he had spoken with Mr. McAdams around Christmas and notified him that he would be at the house on Monday, December 27, 2010. Ms. McKusick inquired of Mr. Aselton the length of time necessary to complete the list of required repairs, to which Mr. Aselton replied two days. Mr. Aselton noted that he had already tried setting specific times with Mr. McAdams and that it hadn't worked in the past.

Mr. McAdams apologized for the amount of time the Town has expended on this issue. He also stated that he had never received a message on his answering machine from Mr. Aselton. At this point, Mr. Aselton interrupted to explain that he had tried two telephone numbers, one of which was off, and the other never picked up.

Attorney Taylor proposed a motion that Mr. McAdams and the caretaker get to the Board of Health by no later than this coming Monday, a schedule when the sixteen hours that they need will be done. This schedule must be signed by both parties and delivered to the Health Agent. The motion was seconded by Dr. Schneider.

Mr. Canning commented that there are some items that do not require access to the house that have not yet been brought into compliance. He listed an underground fuel storage tank, some furniture, and lawn equipment, etc.

Attorney Taylor withdrew his previous motion and proposed another motion that by Monday of next week, Mr. McAdams and the caretaker, representing the owner, have a schedule as to when the sixteen hours of internal work will be done, and that all of the work (today is January 13) all of the work will be completed inside and outside of the dwelling on the owner's property, pursuant to the orders previously submitted by the Board of Health, no later than February 18, 2011. Dr. Schneider seconded the amended motion.

Attorney Christopher Ward, counsel for the owner, came forward to inquire if there were any penalties available to the Board of Health if either Mr. McAdams or Mr. Aselton default on the agreement. He emphasized that both parties need motivation. Mr. Canning explained that the State Housing Code has penalties in place, but only after conviction through the courts. The Board of Health does not have penalties in place. He suggested that the Board continue this hearing to Thursday, January 20, 2011 to ensure that the aforementioned agreement is in place.

Attorney Taylor called the motion. The vote was 5-0-0.

Mr. Canning announced that continuation of this hearing will be held on Thursday, January 20, 2011 at 2:30 p.m.

Attorney Taylor apologized for his vitriol, but once again expressed his consternation dealing with the parties involved in this property.

There was no further business to discuss during this meeting.

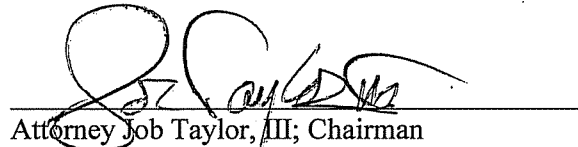
Agenda Item 9 – Adjournment

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting of the Board of Health at 1:53 p.m. The vote was 5-0-0.

Respectfully submitted,



Lynda M. Burwell, Board Secretary

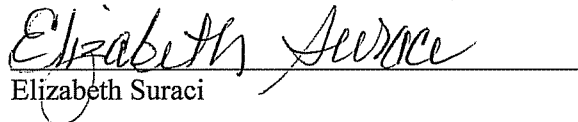
ORLEANS BOARD OF HEALTH

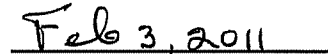

Attorney Job Taylor, III; Chairman

Jan Schneider, M.D.

Augusta F. McKusick, Vice Chairman


Robin K. Davis, Ph.D.


Elizabeth Suraci


Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE January 13, 2011
SPECIAL MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 1 – 33 Eli Rogers Road

- 1 – 1 – Letter/Meeting Notice from the OHD to Robert & Lorraina McAdams dated January 7, 2011
- 1 – 2 – Letter/Meeting Notice from the OHD to George Albert dated January 7, 2011
- 1 – 3 – Letter to Robert & Lorraina McAdams dated December 3, 2010 Notice for Access
- 1 – 4 – Letter to Robert & Lorraina McAdams dated December 29, 2010 Notice for Access
- 1 – 5 – OHD Summary of Communications re: 33 Eli Rogers Road through January 7, 2011
- 1 – 6 – OHD Summary of Violations from October 12, 2010 Order

Agenda Item 2 – Correspondence / Old New Business

None