

Minutes Approved

*August 2, 2021*  
*As Circulated*

June 14, 2021

**SPECIAL** Council Meeting  
Elyria City Council

**1. CALL TO ORDER**

A **SPECIAL** Meeting of Elyria City Council was called to order on June 14, 2021 at 6:00 P.M. by President Stewart. President Stewart opened the meeting with a moment of silent reflection, followed by the Pledge of Allegiance to the Flag of the United States of America.

**2. ROLL CALL: COUNCIL MEMBERS:**

PRESENT: J. Baird, T. Callahan, J. Cerra, B. Davis, D. Mitchell, M. Jessie, K. Oswald, D. Simmons, P. Tollett

ABSENT: J. Keys

OTHERS PRESENT: Mayor Whitfield, Safety Service Director Brubaker, Finance Director Pileski, Law Director Deery, ASSD Calvert, Engineer Schneider, Police Chief Whitely, Asst. Fire Chief Gall, Bldg. Official Farkas

President Stewart read the Business of the meeting:

You are hereby notified in accordance with Section 3.10 of the CHARTER OF THE CITY OF ELYRIA, OHIO, that a SPECIAL MEETING of City Council has been called for Monday, June 14, 2021 at 6:00 P.M. in Council Chambers. A SPECIAL MEETING is being called to consider the following:

**3. ORDINANCES :**

No sponsorship

ORDINANCE NO. 2021-102

AN ORDINANCE AUTHORIZING THE MAYOR TO TAKE ACTION TO ABATE THE NUISANCE AT 327 BROAD STREET, ELYRIA, OHIO AND DECLARING AN EMERGENCY.

President Stewart request a motion to get the matter on the floor. Mr. Cerra moved, Ms. Mitchell seconded, Motion Carried.

President Stewart stated that he would defer to the Law Director and Asst. Law Director as well as the Building Official as they feel the need to weigh in on the discussion as it progresses. There has been a process where the owners of 327 Broad Street are passed the time line to bring the building up to building code standards per the chief building officer. It's an obligation for the city to weigh in at this time. The most important thing that we need to take into consideration is resident safety and the safety of the adjoining buildings, based on the report of the Chief Building Official. President Stewart invited Law Director Deery or Asst. Law Director Breunig to provide an update to the status of the building. Law Director Deery responded that she felt it would make the most sense to have council hear from the Chief Building Official, Mr. Farkas

Mr. Farkas provided a detailed report history of complaints to the building. Beginning in 2016 a complaint was brought to the attention of the City of Elyria Building Department regarding the upper portion of the roof. The findings of the complaint; brick was buckling and in danger of collapsing. An order to abate the violation was issued and proceeded through the court. Records indicate the case was dismissed with options to re-file, th building department is unaware why the case was dismissed. However, moving forward, in 2019 Safety Service Director Brubaker processed demolition charges to demolish the building, which brings us to date. The demolition order was sent to the ownership of the property requesting repair and completion of multiple violations to included discovery by the Elyria Fire

Department on their pursuit for condemnation. Concurrent to these situations, part of the building began to collapse on the outer corner of the structure into the alley. A thirty to forty foot section of the upper quadrant brick facade collapsed onto the electrical panel, which created an immediate electrical shock hazard, weather related. Mr. Farkas had to issue a cease and desist and request that Ohio Edison visit the building to disconnect power to the building. Barricades were put in place in front of the structure in hopes of facilitating immediate repair to the corner of the brick. The order was issued to mend the brick, the ownership was in the process of obtaining a contractor. However, no repairs were made, the brick remains, non-supportive and are floating to date, the same as one and a half years ago. Mr. Farkas was requested by the realtor to inspect the interior of the building. The inspection team as well as Mr. Farkas are state certified inspectors, specifically in electrical, plumbing and heating, structural and mechanical. The inspection team's results were that the overall assessment of the structure was deemed to be unsafe, not due to one singular aspect, however due to many faults with the structure. The building has been in an abandonment state for many years. The building has faulty electrical, the sub-basement is completely submerged in water. The inspection team was unable to inspect the structure due to the submerged water. The electrical panel from a visible standpoint appeared to be submerged at the cusp. Mr. Farkas described other levels of the building as a storage unit as miscellaneous pieces of furniture are all over the building. Mr. Farkas continued to explain the status of the fire suppression mechanism, standpipe system which is utilized as a fire department attachment when the EFD comes to fight a fire. The mechanism is typically focalized in the main stairwell, it consists of a large diameter pipe that runs from one level to the other level for fire department ease of accessibility to pump water throughout the building to fight a fire had been dismantled. A year ago, an attempt to repair the mechanism was made, unfortunately the repair was made prior to the permit process. An order was issued to cease and desist until the proper contractor and licensed personnel were obtained to complete the repairs. To date, the standpipe system remains detached and non-functional. City building officials have compiled along with the Elyria Fire Department past evidence as well as a re-assessment that in their opinion this structure would be a structure they would watch for damage control. Mr. Farkas explained that unfortunately, due to the way the building is comprised, fighting a fire would not be an option. Placement of fire personnel would need to be per floor depending on location and severity of the fire. Due to the multitude of issues and based on the International Property Maintenance Code section 108.1.1, states "when a structure or equipment is found by the code official to be unsafe or when the structure is found to be unfit for human occupancy or is found unlawful, such structure shall be condemned pursuant to the provisions of this code." It further states that an unsafe structure "is one that is found to be dangerous to life, health, property or safety of the public, to the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire or because the structure contains unsafe equipment or is so damaged, decayed, dilapidated structurally unsafe or such faulty construction that is unsuitable or repair to partial or complete collapse as possible." Mr. Farkas explained there are three bullet points that typically are met when looking at this kind of structure. Any one of these bullet points can be utilized when determining a structure to be unsafe. The first bullet point indicates:

- ◆ the structure lacks sufficient or adequate protection for fire (Per the inspection, no fire protection exist, it has been partially removed)
- ◆ it contains unsafe equipment (Every level of the building reflects a state of disrepair and neglect or is completely submerged)
- ◆ all or part of the building is likely to collapse (Partial collapse of the brick is verified on the outside core of the structure)

During the inspection of the roof, the findings were, an attempt to repair a roof leak, half the entire roof was stripped of material stone debris, placed that material on the other half of the roof, new material was placed on top. No approval or permit was known by city building officials. Mr. Farkas says the time line

of the project was unknown, but the crystallization and mold within the building is like walking into a cave. Ultimately that is what led to the order that he issued and a resulting condemnation. Mr. Farkas welcomed questions from council.

Ms. Davis asked if the water in the basement has leaked and caused any problems to the adjoining building? Mr. Farkas replied due to the depth of the water, that is unknown. There is no ability to access the basement to assess the adjacent structures, if any have basements. There are too many unknown variables, Mr. Farkas was unable to answer the question.

Mr. Tollett had two questions, the first question was confirmation from Mr. Farkas that the building is likely to collapse. Mr. Farkas confirmed that the building facade has areas that are likely to collapse, he explained that currently the brick are floating. The second question posed to Mr. Farkas, was are there any parts of the building that are salvageable? Mr. Farkas stated he could not answer the question without a structural assessment. He does have concern of the adjoining properties and the fallen bricks as well as pedestrians safety.

Mr. Oswald asked if the power was still on? Mr. Farkas shared that the building currently has no water, no electric and the building inspectors dare not test for gas consumption. Mr. Oswald also asked why is the building not roped off? Mr. Farkas stated that roping was in his order, he is uncertain why the roping was removed.

Mrs. Mitchell ask about the potential damage to the adjacent buildings on the side of the Shane building. Mr. Farkas responded that the bricks could fall causing significant damage and potentially causing death to any unsuspecting person that may be below. He does believe there to be concern.

President Stewart asked for confirmation of the building being roped off, was it roped off or was there a mesh material placed inside the building, and was the roping the recommendation or the original order of the Building Official? Mr. Farkas replied the initial order that he processed for the facade was for blocking of the entire back alley, no access, no pedestrian movement for the adjacent owners that may exit the rear doors.

Law Director Deery asked Mr. Farkas to please clarify to whom the order is directed to. Part of the correction order is toward the property owner, he or she or the entity is to take those necessary steps. Mr. Farkas explained, yes, however the code also grants him as the building official authority to act to enforce the code if it is deemed immediate danger of which, he did act, because it was immediate danger at the time. Mrs. Mitchell ask for clarification if the protective material was removed? Mr. Farkas stated that the protective material was removed unbeknownst to him. Mrs. Mitchell asked a follow-up question of Mr. Farkas, she understands that an inspection was conducted and would like to know how these things could have gone on for so long unbeknownst to the building official. She stated that she has the understanding of no entrance without the owner's permission. Mr. Farkas explained that the Building Department is only aware of what is happening on the outside of the building. They can not get in the building unless they have written consent or an inspection warrant is obtained. Other departments have greater authority than the Building Department, as they have to follow a different process. Mr. Farkas explained that action was taken regarding brick on the upper roof beginning in 2016, city building officials immediately responded, action was taken regarding the brick facade collapsing. Once building inspectors were asked to make an interior inspection with written consent, immediate action was issued to abate the building. Mr. Farkas explained that the responses have been timely and to the best of their ability as permitted.

Mr. Tollett posed his question to Law Director Deery, however requested that Building Official Farkas remain at the podium, if the City of Elyria does adhere to the building official's action through abating, would the city lose insurance coverage if we did not accept Mr. Farkas' recommendation and would the city of Elyria technically be placing taxpayers in jeopardy? Law Director Deery shared that she would not go as far to say that the city of Elyria insurance carrier would drop the policy, however in her legal

opinion, the city would be placed in a precarious legal position. Our chief building official is titled by way of certification in this area, the city has been placed on notice that the building is condemned, she explained that is a legal definition for all of the reasons that Mr. Farkas laid out before council, it places the city in a vulnerable position for liability purposes. Ms. Deery believes there is a moral imperative that exists. The city had not received notification from the insurance carrier of cancellation of the policy, however no correspondence in writing had been received in defense of this type of situation from the insurance carrier either.

Mr. Cerra asked if the building is demolished if something were to go wrong with the demolition who would hold the liability, the city or the property owner? Ms. Deery explained that the demolition would be processed in the same manner that we manage to independent contractors within the city. The city would ensure that the contractor would be indemnified, carries the proper insurance, and have the requisite experience and qualifications to complete this type of work and necessary prep work.

President Stewart yielded the floor to Mayor Whitfield for a presentation. President Stewart asked that Mr. Farkas stand by for any additional comments.

Mr. Whitfield thanked council for the opportunity to present and stated that the issue with the building has been going on much longer than he has been around, but he would like to bring council up to speed with the administration's involvement. Exhibit "A" (attached)

Mayor Whitfield shared that a town hall meeting was held January 2020 to discuss the The Future of Elyria's Downtown, how to redevelop historic buildings. One month later, February 2020, news media visited downtown Elyria due to the falling bricks from the building and Depot Street had to be blocked off. March 5, 2020 an Emergency Taskforce meeting was held. The understanding from the meeting was the need for more resources to redevelop or demolish, enforce code for safety, activate downtown. From that meeting came aggressive code enforcement and tours of downtown buildings. Mayor Whitfield reiterated Mr. Farkas earlier comments, the team could only address buildings that could be seen from the outside, as they could not enter buildings without permission. Mayor Whitfield explained that the team was aware of some buildings that they needed access to the inside, the Shane building being one of them. A downtown demolition program was established. A demo grant was awarded through the CDC. Summer of 2020 they began redevelopment of properties. The stage they were in for the 327 Broad Street property was engagement of a structural engineer to assess and stabilize the property for repairs. Mayor Whitfield requested ASSD Dawn Calvert to provide additional information.

ASSD Calvert reiterated that as discussed at length, an aggressive code enforcement process was enforced. The property of 327 Broad Street was acknowledged and identified as a safety hazard both structurally and fire safety was a big component of the analysis that was completed. Ms. Calvert shared there is interest and potential for redevelopment. There are unknown costs, the expertise of a structural engineer is warranted. The recommendation is to look at the cost necessary to stabilize the building by working with a structural engineer. An additional recommendation is to support community with a feasibility plan, with a timeline centered around safety for residents.

Mayor Whitfield added that the engagement has been with Mr. Homae from KS Associates, he asked if he would address council.

Mr. Homae, approached the podium, he has been a structural engineer for four years. Mr. Homae is employed by KS Associates. Mr. Homae explained that the most important part of the discussion regarding the building is safety. The building needs immediate fire protection system, this system is recommended during construction so that the fire department is alarmed when there is activity in the building. Mr. Homae explained that this is one of the most important processes that needs to be put in place immediately. He explained the other item of concern is the facial cosmetic element of the building as mentioned throughout the evening, the freestyle and the duration of the concrete softens over time and loses its connection to the fascia that is holding the fascia into the concrete deteriorates and the building

collapses onto the sidewalk. Mr. Homae explained this is a common issue with historic buildings across the country. He shared information of buildings collapsing in Cleveland, OH several times last year which was fatal. It is recommended that the facade be restored immediately, and any loose areas should be plied out of the building and stabilized. It is also recommended that an inspection of the structure be conducted and a written report accompany the inspection with details of the skeleton of the building. The cost associated with redevelopment of the building is estimated at millions of dollars. It was further explained that the process should first be an inspection and evaluation of the building, write a report with recommendation and cost estimate, if a developer is brought on board, the project would transfer to the architectural design, a structural architectural design for repairs and architectural elements, it then has to go to the compliance to make sure everything is up to code. Compliance also is required to obtain permits for the developer. He further explained the final process would be to bid the project and then construction. The overall process is very long long process. Further emphasis was expressed regarding the immediate need today for fire protection system and the ornamental facade that needs to be restored and cleaned up before someone gets hurt.

Mayor Whitfield added to Mr. Homae's closing remarks that this feasibility will need to take place demolition or rehabilitation. No matter what decision is made the length of either project will be a six to nine week process for building accessibility. Mr. Homae explained the demolition process has a significant amount of reliability on the structure engineers and their contractors. Contractors must have an in-house or hire a structural engineer on board to design the construction of the building as to not cause damage to the adjacent properties, its own property and to avoid fatalities. Mr. Homae, reiterated Law Director Deery's earlier statement of the indemnification process. He expressed that it is costly, however required.

President Stewart requested clarification of whether or not the building is demolished or repaired, the analysis is required. Mr. Homae responded, yes.

Mr. Tollett posed his question to Law Director Deery specifically, he asked, once the building is turned over for demolition, who holds the liability? Ms. Deery explained the inspection, demolition, or redevelopment would all be a part of the contractor agreement, as well as the liability responsibility and due diligence for their work. The property owner has a primary liability, Ms. Deery is not privy to the insurance that is currently being carried.

Mrs. Mitchell asked for further clarification of the process, she understood the process to be, first secure the bricks on the outside to avoid them falling down and avoid fatalities and the next step would be to install a fire suppression system. Mrs. Mitchell asked the question, that even after completing the above, the possibility exist that the building may not be salvageable even after placing the large amount of money in the building. Mr. Homae says that the money has to be spent regardless, the building is abandoned. The city does not need another fire downtown or bricks falling on the sidewalk. It emphasized this project needs to be taking place today, because it is that urgent. He explains the cost has nothing to do with any demolition or rehabilitation.

Mr. Oswald asked if Mr. Homae could assess by looking at the building if it was built as a stand alone building or connected to the adjacent buildings? Mr. Homae, responded the 327 Broad St. building is a stand alone building, the building has significant foundation and concrete skeleton. His belief is the building was designed to possibly build with an upward expansion in the future. However that has never happened. Mr. Homae's assessment of the columns from a couple of floors, he depicts as significantly over designed.

Mayor Whitfield expressed that the excitement and opportunity around redevelopment is common with historical buildings, which is what led to the community development process and engaged Mr. Joel Ratner., CDC consultant. Mayor Whitfield concluded his remarks by stating that he wanted to ensure council knew where the administration was in this process.

President Stewart shared council understands the building in it's entirety and the long standing history of the building in Elyria. Council has to take into account the risk and safety based on the recommendations. President Stewart invited to the podium, resident Kelly Kraus Mencke who has an interest in the building Ms. Mencke, 716 Park Ave., Elyria, OH presented the following:

Ms. Mencke stated that although the 327 Broad St. is abandoned, the building is celebrating one hundred years of being open. The construction began in 1914, it opened in 1921. As a resident, Ms. Mencke would like the opportunity to develop the property and celebrate a century of business with private and public partnership for the revitalization of downtown Elyria. Ms. Mencke sees the building as a hub for commerce and community spirit. The project aims to save 327 Broad St as a piece of history. The project would be mixed use, residential and commercial retail. The upper three floors will contain efficiency one bedroom, below market rentals to serve low income residents and senior citizens. Commercial and retail space in the basement and the first floor. The total projection would be completed in phases with local contractors for a total of about seven or eight million dollars. Ms. Mencke reviewed several of the issues that were brought up by the building official: original standpipe and standpipe replacement, neither work right now, reconstruction of brick to the northeast corner and window bays n the third floor, the roof needs to be repaired, the water in the basement has destroyed the heating system, the boilers haven't worked in years, sump pump replacement, and the electrical panels need to be moved to the basement. The project will take three to five years, some financial partners are identified, some request for partnership have to be confirmed.

Mr. Oswald shared that he is not interested in the building being torn down, he stated the project is scary because it is a huge undertaking and financing is unknown.

President Stewart thanked Mrs. Krause Mencke for he presentation and interest in the building. He believes that everyone would like for things to work out with the building , however the need to approach this from a safety perspective exists. This may be feasible for an investor wether it's Mrs. Kraus Mencke, someone else, or a group of individuals to accomplish this. The city of Elyria has an obligation to the safety of our residents and the adjoining buildings to move forward at this time. President Stewart is open to continuing the dialogue.

A motion is on the floor to consider the matter of an ordinance to authorize the Mayor to take action to abate the nuisance at 327 Broad Street, Elyria under suspension of rules and declaring an emergency, moved by Ms. Davis, second by Mr. Tollett.


Mrs. Mitchell called for the question:

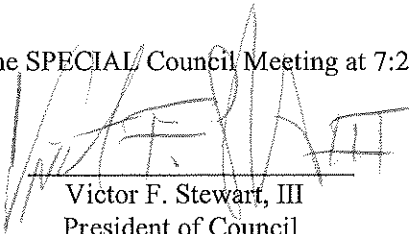
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#### **4. ADJOURNMENT:**

Mr. Cerra moved, Mr. Baird seconded to adjourn the SPECIAL Council Meeting at 7:20 P.M.

MOTION CARRIED

  
Michael J. Lotko, III  
Clerk of Council

  
Victor F. Stewart, III  
President of Council