

Minutes of the Special Meeting of the Town Board of the Town of Mooers held April 23, 2014 at the Mooers Office Complex commencing at 3:00P.M.

Present: Jeff Menard, Supervisor
Cory Ross, Councilperson
Mary Myatt, Councilperson
Gerald LaValley, Councilperson

Recording Secretary: Brandi Lloyd, Town Clerk
Others Present: Eloi Duguay, property owner
Absent: Steve Barcomb, Councilperson

Meeting: Supervisor Jeff Menard called the Meeting to Order at 3:06PM, then he asked Brandi Lloyd to lead them in the "Pledge of Allegiance", which she did.

Supervisor Menard announced that the purpose of the meeting was to discuss the building collapse at 2444 State Route 11, Mooers with the owner, Mr. Eloi Duguay. Supervisor Menard went over the timeline of the building collapse with Mr. Duguay. He said that the night of the collapse, the sidewalls were dangling and the Fire Department had to bring in an excavator to finish knocking the building down to prevent a hazardous situation. Supervisor Menard said that Mr. Dixon had sent Mr. Duguay an e-mail to notify him of the collapse. Mr. Duguay agreed that he had received e-mails about the building falling down, but he said he had been sick. Mr. Duguay said he understands what happened with the building. Mr. Duguay said he did come down and shovel snow off of the roof of the porch a few days before the collapse. Supervisor Menard said he had e-mailed Mr. Duguay notifying him that he needed to come to speak with the Board to let them know his plan. He added that Mr. Duguay replied that he would come next week, but never showed. Supervisor Menard told Mr. Duguay that the Town had given him 60 days notice to start the clean-up. He added that the clean-up started two weeks ago because they never heard back from Mr. Duguay. Supervisor Menard asked Mr. Duguay, when he purchased the building, if he had received a certificate stating the building was free of asbestos. Mr. Duguay said he didn't have a survey of the property. Supervisor Menard said, without a survey, New York State says that it must now be treated as if it is asbestos. Mr. Dixon said the Town has received confirmation, from Mr. Jason Pensbeane, that there is asbestos in the debris of the building. Mr. Dixon told Mr. Duguay that he spoke with him throughout the whole process of Mr. Duguay purchasing and then becoming the owner of the property. He said he told Mr. Duguay of the repairs that needed to be done on the property. He added that, because of the delays with the repairs, the building collapse is solely Mr. Duguay's responsibility. Mr. Dixon added that he spoke with Mr. Duguay during the time he was buying it. He said he told Mr. Duguay he could stop the process if he no longer wanted to purchase the property because it was condemned part way through the sale. Mr. Duguay said he spoke with a lawyer and the engineer said the property needed some "TLC." Mr. Dixon said it was not TLC. Mr. Duguay said the engineer said the building would come down probably if there was an earthquake. Mr. Dixon asked Mr. Duguay if the engineer said there were repairs needed. Mr. Duguay said yes. Mr. Duguay said he took a picture of the sign on the porch that said the building was safe. Mr. Dixon said the sign did not say that. Mr. Dixon clarified that the sign read that it was a, "soft structure." Mr. Dixon said he spoke with the engineer regarding the remediation plans that included the big crack in the northeast wall. Mr. Dixon said the biggest problems were with the bricks falling, the cracks, and rotted timbers. He added that, because maintenance was not done for so many years, the building collapsed. Mr. Dixon clarified that the clean-up of the collapsed building is all Mr. Duguay's responsibility. Mr. Duguay said at this point he is not comfortable handling the remediation and would like to have a more knowledgeable person step in. Mr. Dixon gave Mr. Duguay a manual on how to handle asbestos as well as the name and contact information for the contact at New York State Department of Labor, Jason Pensbeane. Supervisor Menard said that only someone with a New York State license to handle asbestos can work on the site. Mr. Duguay asked what happens now and who has been removing debris. Supervisor Menard said the contractor that was working on the site only had an asbestos certificate and will not be working on the site any longer. He said New York State put a hold on the work. Mr. Duguay asked if it was too soon to discuss what the cost would be. Supervisor Menard said on January 11th, the date of the collapse, the bill is \$3,172.00. He said the bill from two weeks ago, when Mr. Randy Bedard started to work on the site, to remove 80 tons of debris with thirteen trips to the dump, the total is about \$10,000.00. Supervisor Menard said about \$13,000.00 is currently due to the Town. Mr. Duguay asked how much of the debris had been removed. Supervisor Menard said about one-third had been removed. Supervisor Menard said he asked a licensed contractor from Massena to come look at the pile and he estimated it to be about 200 tons left to be removed. He added that the 200 tons had to be shipped to an asbestos facility over two hours away at \$225.00 per ton. He said just the landfill fees would be about \$60,000.00, not counting the transportation or the truck costs. Mr. Duguay asked Mr. Dixon if he had said that he

could just let the property go. Mr. Dixon answered no, that he had told Mr. Duguay that you can't just let this go. Supervisor Menard told Mr. Duguay that if he does not clear the property the Town will have to pay to do so and it will be put on his tax bill. Mr. Duguay asked if he would be able to make installment payments on the tax bill or if it would be one huge bill. Supervisor Menard said it would be one huge bill. Supervisor Menard asked if Mr. Duguay would like another 60 days to come up with a plan. Mr. Dixon said an asbestos contractor would have to be hired to oversee the removal of the debris. Supervisor Menard told Mr. Duguay that the next Town Board meeting is May 13th at 7:00pm and he would like Mr. Duguay to let the Board know what he plans to do by that time. Mr. Duguay said he would be in touch with the NYS Department of labor representative, Jason Pensabene. Mr. Dixon said that, although it is nothing personal, he has a job to do and the Town needs to have a legal standing on this matter. Mr. Dixon then gave Mr. Duguay appearance tickets for court on May 8th. Mr. Dixon said he is not looking to fine Mr. Duguay, he is just making sure that the Town is covered. Supervisor Menard gave Mr. Duguay copies of all invoices received to date. Mr. Duguay said he would be in contact with Supervisor Menard and left.

Supervisor Menard then asked the Board about the invoice received from Mr. Randy Bedard for the two days he worked on removing the debris. Councilperson Myatt asked where the Town Board would stand if they did pay Mr. Bedard. Councilperson Myatt said nine loads were dumped on Mr. Hogle's property, not the landfill. Councilperson Myatt said she saw the pile of debris that had been dumped on Mr. Hogle's land and that Mr. Hogle's land is considered wetlands. Supervisor Menard said only bricks had been dumped there. Councilperson Myatt said she took pictures of the debris on Mr. Hogle's land and that it is not just bricks. Councilperson Ross asked if the Board had anyway of verifying that the invoices for the landfill are legitimate. Councilperson Myatt said she would like to investigate the matter further before agreeing to pay Mr. Bedard's bill. Councilperson Ross agreed. Mr. Dixon said he disagreed with Mr. Bedard trying to put this on the Town. Councilperson Myatt asked if the work that Mr. Bedard did could come back on the Board or them as individuals. Supervisor Menard said he was unsure. Councilperson Myatt asked about the issue of it being positive for asbestos. Councilperson Ross said that asbestos is microscopic and easily blows around. Mr. Dixon explained that he had been in the building a couple of times before the collapse. He said that the asbestos had to be in the mortar. He added that it spreads when the pile of debris gets wet and starts to run into the street or by blowing around. Mr. Dixon said that Mr. Duguay needs to have it capped. He added that he just doesn't want something bad to happen to anyone. Mr. Dixon said he would contact Mr. Pensabene to make sure that Mr. Duguay had contacted him. Councilperson Myatt said the church had an abatement company come in to take care of the roof. She asked if a similar process could be done with the building. Supervisor Menard said this is different, that it has to be handled differently and is much more expensive. Mr. Dixon said it has tested positive for asbestos. He said, for the future, the Town should work with the lawyer to have a resolution in place to handle abandoned buildings and possibly have them tested for asbestos now. Supervisor Menard said he would contact Mr. Murnane regarding the liability of the town and the Board. Mr. Dixon said he would contact Mr. Murnane to if there are legal means to determine if Mr. Duguay had insurance on the property.

Adjourn: Meeting adjourned 3:45pm.

Respectfully Submitted,

BRANDI B. LLOYD, TOWN CLERK/TAX COLLECTOR