



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD**  
**MINUTES OF THE FEBRUARY 22, 2024 REGULAR MEETING**  
*Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana*

**Present:** Mayor Gina Leichty, Mike Landis, Orv Myers, Mary Nichols, and Barb Swartley

**Absent:**

**CALL TO ORDER:** Mayor Gina Leichty called the meeting to order at 4:00 p.m.

**REVIEW/APPROVE MINUTES:** Mayor Leichty presented the minutes of the Feb. 8, 2024, Regular Meeting as prepared by Clerk-Treasurer Aguirre. Board Member Mary Nichols moved to approve the minutes as presented and the motion was seconded by Board Member Orv Myers. Motion passed 5-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the agenda as presented by the Clerk-Treasurer. Board member Nichols moved to accept the agenda as presented. Board member Myers seconded the motion. The motion passed 5-0.

**1) Oath of Office: For four members of the City Shade Tree Board**

Mayor Leichty said she would be swearing in returning and new members of the City Shade Tree Board: Emma Conrad (a current member), Phippen Roth, Natasha Kauffman and Jeremy Kyle Strain. All were appointed Jan. 29, 2024 by the Common Council. Mayor Leichty swore Conrad, Kauffman and Roth into office for terms effective Jan. 1, 2024 to Dec. 31, 2026 and Strain for a term of office effective Jan. 1, 2024 to Dec. 31, 2025.

**2) Fire Department request: Approve the promotion of Scott A. Thomas to the rank of Assistant Chief of Fire Prevention, retroactive to Feb. 12, 2024**

City Fire Chief Dan Sink told the Board that Scott A. Thomas had met the standards and criteria required for promotion to Assistant Chief of Fire Prevention.

Chief Sink added, "It is my pleasure to request your approval for the promotion of Scott to the rank of Assistant Chief of Fire Prevention for the Goshen Fire Department, retroactive to Feb. 12, 2024."

Nichols/Myers made a motion to approve the promotion of Scott A. Thomas to the rank of Assistant Chief of Fire Prevention, retroactive to Feb. 12, 2024. The motion passed 5-0.

*After approval, Mayor Leichty swore Scott A. Thomas into office as Assistant Chief of Fire Prevention.*

**3) Fire Department request: Approve the promotion of John W. Evans to the rank of Chief Inspector for Fire Inspections, retroactive to Feb. 12, 2024**

City Fire Chief Dan Sink told the Board that John W. Evans had met the standards and criteria required for promotion at the Goshen Fire Department.

Chief Sink added, "It is my pleasure to request your approval for the promotion of John to the rank of Chief Inspector for Fire Inspections for the Goshen Fire Department, retroactive to Feb. 12, 2024."

Nichols/Myers made a motion to approve the promotion of John W. Evans to the rank of Chief Inspector for Fire Inspections, retroactive to Feb. 12, 2024. The motion passed 5-0.

*After approval, Mayor Leichty swore John W. Evans into office as Chief Inspector for Fire Inspections.*

**4) Fire Department request: Approve the promotion of Travis M. Peak to the rank of Chief Inspector of Public Safety Education, retroactive to Feb. 12, 2024**



**City Fire Chief Dan Sink** told the Board that **Travis M. Peak** had met the standards and criteria required for promotion at the Goshen Fire Department.

**Chief Sink** added, "It is my pleasure to request your approval for the promotion of Travis to the rank of Chief Inspector of Public Safety Education for the Goshen Fire Department, retroactive to Feb. 12, 2024." Chief Sink added that this is a new position at the Fire Department and that Peak will coordinate the new firefighter and paramedic education program and partnership at Goshen High School.

**Nichols/Myers** made a motion to approve the promotion of **Travis M. Peak** to the rank of Chief Inspector of Public Safety Education, retroactive to Feb. 12, 2024. The motion passed 5-0.

*After approval, Mayor Leichty swore Travis M. Peak into office as Chief Inspector of Public Safety Education.*

**5) Fire Department request: Approve the promotion of Lyle R. Wingard to the rank of Fire Captain, retroactive to Feb. 12, 2024**

**City Fire Chief Dan Sink** told the Board that **Lyle R. Wingard** had met the standards and criteria required for promotion at the Goshen Fire Department.

**Chief Sink** added, "It is my pleasure to request your approval for the promotion of Lyle to the rank of Fire Captain for the Goshen Fire Department, retroactive to Feb. 12, 2024."

**Nichols/Myers** made a motion to approve the promotion of **Lyle R. Wingard** to the rank of Fire Captain, retroactive to Feb. 12, 2024. The motion passed 5-0.

*Lyle R. Wingard was on vacation and was to be sworn into office as Fire Captain at a later date.*

**6) Fire Department request: Approve the promotion of Lucas L. Mason to the rank of Fire Lieutenant, retroactive to Feb. 12, 2024**

**City Fire Chief Dan Sink** told the Board that **Lucas L. Mason** had met the standards and criteria required for promotion at the Goshen Fire Department.

**Chief Sink** added, "It is my pleasure to request your approval for the promotion of Lucas to the rank of Fire Lieutenant for the Goshen Fire Department, retroactive to Feb. 12, 2024."

**Nichols/Myers** made a motion to approve the promotion of **Lucas L. Mason** to the rank of Fire Lieutenant, retroactive to Feb. 12, 2024. The motion passed 5-0.

*After approval, Mayor Leichty swore Lucas L. Mason into office as a Fire Lieutenant.*

**7) Fire Department request: Approve the promotion of Jeremy A. Krezel to the rank of Fire Sergeant, retroactive to Feb. 12, 2024**

**City Fire Chief Dan Sink** told the Board that **Jeremy A. Krezel** had met the standards and criteria required for promotion at the Goshen Fire Department.

**Chief Sink** added, "It is my pleasure to request your approval for the promotion of Jeremy to the rank of Sergeant for the Goshen Fire Department, retroactive to Feb. 12, 2024."

**Nichols/Myers** made a motion to approve the promotion of **Jeremy A. Krezel** to the rank of Fire Sergeant, retroactive to Feb. 12, 2024. The motion passed 5-0.

*After approval, Mayor Leichty swore Jeremy A. Krezel into office as a Fire Sergeant.*

**8) Police Department request: Approve the hiring of David M. Stump for the position of Probationary Patrol Officer, retroactive to Feb. 12, 2024**

**Chief Miller** asked the Board to approve the hiring of **David M. Stump** for the position of Probationary Patrol Officer. **Chef Miller** said Officer Stump has been approved by both the local and the State pension boards. He is graduate of the Indiana Law Enforcement Academy and was hired by Goshen Police in November 2021.



Chief Miller said, "An opening on the Wakarusa Police Department became available, which was more conducive at the time for David and his family. He left Goshen Police Department with good standing to work as a patrol officer in Wakarusa. Although David enjoyed working at Wakarusa, he believes there are more opportunities for career advancement in a larger community." Officer Stump's hiring will be retroactive to Monday Feb. 12, 2024.

**Nichols/Myers made a motion to approve the hiring of David M. Stump for the position of Probationary Patrol Officer, retroactive to Feb. 12, 2024. Motion passed 5-0.**

***After approval, Mayor Leichty swore David M. Stump into office as a Probationary Patrol Officer.***

**9) Police Department request: Approve the disability for Officer Antonio Medina**

Goshen Police Detective Joshua M. Havens, the department's Pension's Secretary, asked the Board to approve placing Officer Antonio Medina on disability upon approval by the Indiana Public Retirement System.

Det. Havens said Officer Medina has a health-related physical condition that arose in August 2023. He has had surgery and physical therapy, but it is believed that this condition is so severe it will likely end his law enforcement career. Det. Havens said Officer Medina also underwent a psychological evaluation in December 2023 and was not deemed fit for duty.

Det. Havens said on Jan. 22, 2024, Officer Medina requested a local Pension Board hearing for consideration of his claim for disability benefits through the Indiana Public Retirement System. A Pension Board meeting had already been scheduled for Jan. 25, 2024 for approval of a new officer, so a disability hearing for Officer Medina was added to that agenda.

Det. Havens said Officer Medina attended the meeting, verbally requested disability and answered questions from Pension Board members. After discussion and deliberation among Board members, Officer Medina's disability was unanimously approved by the Pension Board.

Mayor Leichty thanked Officer Medina for his service, adding he has gone "above and beyond the call of duty."

**Nichols/Myers made a motion to approve placing Officer Antonio Medina on disability. Motion passed 5-0.**

**10) Police/Legal departments request: Extend a conditional offer of employment to Kyle J. Hamood as a probationary patrol officer and approve the employment agreement**

On behalf of the Police Department, City Attorney Bodie Stegelmann recommended that the Board extend a conditional offer of employment to Kyle J. Hamood, as well as approve an attached Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement on behalf of the City and the Board.

The agreement sets forth the conditions that Hamood must meet prior to beginning employment with the Police Department as a probationary patrol officer which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

Stegelmann said the agreement also provides for payment of a hiring bonus as provided by the collective bargaining agreement with the Fraternal Order of Police.

Hamood has completed the Tier I basic training requirements, has active certification with the Indiana Law Enforcement Training Board, has or will have separated from another Indiana law enforcement agency as an active reserve officer or paid police officer within 24 months, has been employed with another Indiana law enforcement agency for at least one year within the last 12 months, and is a first-time employee of the Goshen Police Department. Stegelmann said the Police Department will request the Board to confirm the offer of employment when a position opening becomes available in the Police Department.

**Nichols/Myers made a motion to extend a conditional offer of employment to Kyle J. Hamood as a probationary patrol officer and approve the Conditional Offer of Employment Agreement with Hamood, which includes a hiring bonus, and authorize the Mayor to execute the agreement. Motion passed 5-0.**



**11) Goshen Noon Kiwanis request: Approve Avenue of Flags proposal – the installation of U.S. flags in residential yards and along commercial streets for five major federal holidays**

**John Huber**, a member of the **Goshen Noon Kiwanis Club**, told the Board that the club raises funds to help non-profit groups, including the Boys & Girls Club, the Salvation Army and other organizations.

**Huber** said that a few years ago, a club member was visiting Westville and saw many U.S. flags displayed and learned that the local Kiwanis club sponsored a program known as the "Avenue of the Flags." He said the club member proposed the idea to the Goshen Noon Kiwanis Club, and the board may move ahead with the project.

**Huber** said club members would ask residents to participate in fund raising by agreeing to have 3-foot by 5-foot flags placed on their lawns for a \$60 renewable annual fee. Club members will call 811 to ensure safe placement of the 1-inch conduits.

**Huber** said two or three days before a holiday, club members would insert a 3/4" x 10' pole with a flag mounted to it and then remove the flag two or three days after the holiday. The selected holidays would be Memorial Day, Flag Day, Independence Day, Labor Day and Veteran's Day. He said local groups have agreed to help Kiwanis club members place and remove the flags.

**Huber** said the club also had proposed placing flags on downtown sidewalks in front of participating business, but because of concerns raised by the City Engineering Department, the club would instead seek Board approval to place six-foot flags, diagonally, on City street lights.

**Huber** asked the Board to approve the project.

**Mayor Leichty** commended Kiwanis club members for taking the initiative and proposing this community engagement project. She said it was a great initiative and she was glad a compromise had been reached to place flags and not conflict with Americans with Disability Act (ADA) provisions. The Mayor also offered to connect club members with the Economic Improvement District Board, the organization that controls downtown street lights.

**City Director of Public Works & Utilities Dustin Sailor** said he was glad the club withdrew the idea of placing flags on sidewalks. He said one concern was the number of right-of-way permits that would be required.

**Sailor** said it also would be important that the flags not impinge on sidewalks in any way and that they be placed in lawns six feet away from sidewalks. In response to a question from **Board member Landis**, **Sailor** said the City could impose the six-foot requirement based on ADA provisions.

**Huber** said that Westville allows flags on sidewalks. **Sailor** said he was advising the Board to follow ADA provisions. **Huber** said the club would work with the City to arrange for appropriate placement of the flags.

**Board member Landis** said he didn't know how the Board could put the approval in a motion. The **Mayor** said she didn't want the Board to have to approve individual flag requests. **Board member Landis** said it made sense to impose the six-foot recommendation. **City Attorney Stegelmann** recommended that the flags be placed a minimum of six feet from the sidewalk or pavement and that this be included in a motion to approve.

**Board member Nichols** clarified the appropriate motion with the **City Attorney** and the **Mayor**.

In placing flags, **Board members** advised **Huber** to be aware of the location in lawns of sprinkler systems and fiber optic cable from internet service providers.

**City Street Commissioner David Gibbs** said that the City already displays U.S. flags on Main Street at every intersection from Flag Day through Veterans Day.

**Sailor** said he wanted to add that there are different sizes of U.S. flags and any flag placed should be kept clear of the sidewalk or pavement.

**Board member Landis** asked who will make sure that oversized flags are not placed on lawns. **Mayor Leichty** said it would be up to the club to manage the program. **Huber** said 3-foot by 5-foot flags would be used.

**Nichols/Myers** made a motion to approve the Avenue of the Flags proposal from the Goshen Noon Kiwanis Club to plant flags on private properties, making sure that each flag is placed six feet from any sidewalk or paved roadway. Motion passed 5-0.



**12) Jeffrey & Cindy Grant request: Refund \$241 of irrigation water meter bill charges**

**Jeffrey and Cindy Grant of 2512 Redspire Boulevard in Goshen** requested a refund of \$241 for irrigation water meter billing charges from June 10, 2019 through Dec. 13, 2023.

**Cindy Grant** apologized for not complying with this policy, but said they were unaware of it and did not receive any written or verbal communication or a compliance alert from the Utilities Department, nor did they find the policy on the Utilities website. In December, she said they better understood the policy that they had to request a shut off of water to their sprinkler system. She added that no water was used over the winters.

**City Director of Public Works & Utilities Dustin Sailor**, who was substituting for **City Water & Sewer Office Manager Kelly Saenz**, said the city's response to the refund request was summarized in a memo provided to the Board by Saenz. The memo outlined the background of the case and the City policy that customers must ask to inactivate sprinkler service for an irrigation account to be closed for non-seasonal use or billing charges will be assessed.

"The Utility Billing Office does not have the authority to refund the requested billing fees to the Grants as requested," **Sailor** said. "Additionally, the Utility Billing Office cautions against approving this type of request on the basis the billing fee was properly posted, the customer had a pattern of paying the fee over multiple years, and if approved, this relief could be grounds for customers to make a similar request whether warranted or unwarranted."

**Cindy Grant** responded that "We believe the refund would help us adjust to the current policy and help us to continue to pay our future bills on time. The refund would also demonstrate the Utilities Department's commitment to customer satisfaction and trust. And this way, the refund would benefit both the Utilities Department and us."

**Mayor Leichty** asked if the Grant's account showed it was in arrears. **Cindy Grant** that they paid the fees and only later realized it was an administrative fee. She also explained how she learned about the City's policy.

In response to questions from **Board member Landis**, **Cindy Grant** said she and her husband have lived at 2512 Redspire Boulevard for 17 years, but only installed a sprinkler system in 2019. She explained the installation and the two separate water bills they received – one for inside use and one for the sprinkler system. **Cindy Grant** again apologized for not complying earlier with the policy but said she didn't understand it.

**Mayor Leichty** said she understood the Utilities Office's position about not wanting to set a precedent and invite other refund requests but said a "reasonable case" could be made for clarifying the policy in writing or on the website so people understand the regulation. She said she would be open to refunding half the amount requested as a compromise if the Board would support that.

**Board member Landis** said he could appreciate a customer asking a question and not understanding the response and also would be open to a "middle of the road compromise."

**Nichols/Myers made a motion to approve a refund for 2512 Redspire Boulevard of half the amount requested or \$120.50. Motion passed 5-0.**

**13) Legal Department request: Approve and authorize the purchase of a 2024 Chevy Tahoe and 2024 Chevy Silverado for the Fire Department Fleet from Kelley Chevrolet for \$97,845**

**City Attorney Bodie Stegelmann** told the Board that the City of Fort Wayne received bids for the purchase of 2024 vehicles that included Special Service Vehicles for use by Fire Departments. The City of Fort Wayne Indiana's bidding invitation allows that it be open to other governmental agencies to purchase through.

**Stegelmann** said Kelley Chevrolet in Fort Wayne was awarded the contract and has the following vehicles available to purchase from the City of Fort Wayne's order:

- 2024 Chevy Tahoe SSV 4x4, Model CK10706 for the purchase amount of \$51,495; and
- 2024 Chevy Silverado 1500 Crew Cab Short Bed 4x4, Model CK10543 for the purchase amount of \$46,350.



Kelley Chevrolet will contact the City when production of the vehicles begins and when the vehicles are available for pick up. The total purchase price is \$97,845.

**Nichols/Myers made a motion approve and authorize the purchase of a 2024 Chevy Tahoe and a 2024 Chevy Silverado for the Fire Department Fleet from Kelley Chevrolet at a total cost of \$97,845. Motion passed 5-0.**

**14) Legal Department request: Approve and authorize the Mayor Leichty to execute the agreement with Martec General Construction for repairs to the Utilities Billing Office at a cost of \$22,000 and completion deadline of June 30, 2024**

City Attorney Bodie Stegelmann told the Board that the City Utilities Billing Office needs various repairs to the building. He said attached for the Board's agenda packet for approval, and to authorize Mayor Leichty to execute, was an agreement with Martec General Construction to perform the necessary repairs. He said Martec General Construction will be paid \$22,000 to perform all the repairs, with all to be completed by June 30, 2024.

**Under the agreement, the contractor's duties include the following:**

(A) Remove and replace the cedar siding that has rot with cedar boards, the City of Goshen has (6) 8' boards on-site that will be supplied.

(B) Remove nails and replace existing siding with exterior grade screws suitable for materials used.

(C) Remove and replace rotten window trim with cedar boards.

(D) Prep entire exterior for paint to include power washing, caulking (suitable for cedar) and sanding of the doors inside and out.

(E) Replace bottom board with a plastic board or pressure treated lumber rated for ground contact with flashing along the top.

(F) New wood to be primed with tinted primer to match color before installation.

(G) Clean the cedar shake siding to brighten and remove any mildew then apply 2 coats of clear sealer.

(H) Prep and paint with two (2) coats inside and out three (3) entry doors.

(I) Paint the entire exterior with 2 coats of Sherwin-Williams Duration to include but not limited to the siding, trim, eaves, fascia, tops of beams and doors up to the gutters and metal fascia, color to be determined by the city.

(J) Provide all materials, labor and equipment to complete the job in a professional manner keeping the job site clean.

(K) Care must be taken to accommodate foot traffic.

**Nichols/Myers made a motion to approve and authorize Mayor Leichty to execute the agreement with Martec General Construction for repairs to the Utilities Billing Office at a cost of \$22,000 and a completion deadline of June 30, 2024. Motion passed 5-0.**

**15) Legal Department request: Accept deed of dedication from Andrew E. Borkholder and Inez L. Borkholder**  
City Attorney Bodie Stegelmann recommended that the Board accept the attached Deed of Dedication from Andrew E. Borkholder and Inez L. Borkholder for public right-of-way along the north side of College Avenue, east of the railroad tracks.

**Nichols/Myers made a motion to accept the Deed of Dedication for public right-of-way from Andrew E. Borkholder and Inez L. Borkholder and authorize the Mayor to execute the acceptance. Motion passed 5-0.**

**16) Legal Department request: Adopt Resolution 2024-07, Authorizing Agreement for and Acceptance of Easement, to help extend the Winona Trail/Maple City Greenway**

Assistant City Attorney Don Shuler told the Board that the City has been working to extend the Winona Trail/Maple City Greenway.



As part of those discussions, **Shuler** said the City sought an easement from Goshen Community Schools to permit the trailway to be extended over, across, and through the school that lies east of Waterford Elementary along the western edge of the Norfolk Southern Railway, between Waterford Mills Parkway and Bethany Christian Schools. Following negotiations, **Shuler** said Goshen Community Schools agreed to grant the City an easement for purposes of the trailway extension, provided the City cover any attorney's fees.

**Shuler** said Resolution 2024-07 would approve the Purchase Agreement for Easement and the City's acceptance of the easement and authorize the Mayor to execute the Agreement and any other documents on behalf of the Board and the City of Goshen for this purpose.

**Nichols/Myers made a motion to adopt Resolution 2024-07, Authorizing Agreement for and Acceptance of Easement. Motion passed 5-0.**

**17) Legal Department request: Adopt Resolution 2024-08, Authorizing Amendment to Easement for maintenance, replacement and operation of a storm drain**

**Assistant City Attorney Don Shuler** told the Board that the City has been working with Brunk Real Estate, LLC to amend a 1973 easement over a portion of Brunk Real Estate, LLC's property at 803 Logan Street for maintenance, replacement, and operation of a storm drain. A building has been constructed over a portion for the easement.

**Shuler** said the City and Brunk Real Estate, LLC, following negotiations, has agreed to amend the easement to provide additional rights of entry to City for purposes of maintaining and repairing the storm drain in the easement, as well as providing terms for the future replacement of the storm drain with a new proposed easement location. He said Resolution 2024-08 would approve the Amendment to Easement document and authorize the Mayor to execute the agreement and any other documents on behalf of the Board and the City of Goshen for this purpose.

**Nichols/Myers made a motion to adopt Resolution 2024-08, Authorizing Amendment to Easement. Motion passed 5-0.**

**18) Legal Department request: Approve and execute Resolution 2024-01, Authorizing the special purchase of services for first aid and safety supplies and equipment from Cintas Corp.**

**City Attorney Bodie Stegelmann** told the Board that attached to the agenda packet was Resolution 2024-01, *Authorizing the Special Purchase of Services for First Aid and Safety Supplies and Equipment from Cintas Corporation.*

**Stegelmann** said the City has a unique opportunity to purchase these supplies and equipment at a savings to the City. He asked the Board to execute Resolution 2024-01 approving this special purchase and authorizing Mayor Leichty to execute the agreements.

**Nichols/Myers made a motion to approve and execute Resolution 2024-01 approving the special purchase of services for first aid and safety supplies and equipment from Cintas Corporation and authorize Mayor Leichty to execute the agreements. There was no vote on this motion.**

**Mayor Leichty** said she knew there was considerable discussion among City Department heads about expenditures under a previous agreement with Cintas. She asked if those concerns had been resolved.

**Stegelmann** confirmed that was partly the case. He said this agreement would apply to some City Departments but not all. He said it was not mandated for all departments.

**Board member Landis** asked if there was an estimated cost of these supplies and equipment or if it was just a willingness to purchase, noting that contract language appeared to indicate \$2.5 million in spending. He asked if a dollar figure should be added.

**Clerk-Treasurer Aguirre** said the City Safety Committee discussed this issue at its recent meeting. He said it appeared City Department heads would have an opportunity to decide the first aid supplies and equipment they wanted. He said concerns were raised that in some cities Cintas has provided first aid items not wanted or required.



Clerk-Treasurer Aguirre said he believed Human Resources Manager Rita Huffman would be providing input on this matter before Cintas starts providing items and charging for them.

Mayor Leichthy asked if the City would have to purchase first aid supplies and equipment exclusively from Cintas or whether the City could have the flexibility to buy from other vendors. Aguirre said he didn't believe that was the case.

Mayor Leichthy said she wanted to be careful because she heard pushback from some City Departments.

Stegelmann said his understanding from Brandy Toms, a paralegal with the City Legal Department, is that those concerns had been resolved. However, he said that if the Board would prefer to wait a week to approve the resolution, he would seek more information about this issue.

Mayor Leichthy said she would prefer to wait to learn more. Board member Landis agreed. Asked about how to proceed, Stegelmann advised that the Board could approve a motion to table Resolution 2024-01.

Nichols/Myers made a motion to table Resolution 2024-01, approving the special purchase of services for first aid and safety supplies and equipment from Cintas Corporation and authorizing Mayor Leichthy to execute the agreements, for one week. Motion passed 5-0.

Mayor Leichthy said she didn't want to undo any work, but wanted to make sure everyone was OK with this agreement.

**19) Clerk-Treasurer-Utilities request: Grant permission to void \$5,217.02 in outstanding warrants dated on or before Dec. 31, 2021**

Clerk-Treasurer Richard R. Aguirre told the Board that this was a request made yearly. He said the City sends checks to individuals for refunds on deposits and similar items and for whatever reason, some checks are not cashed. After two years, the City can take those commitments off the books and return the amounts to City funds. Attached to the agenda packet were lists of outstanding warrants from the City Clerk-Treasurer's Office and the City Utilities Office dated on or before Dec. 31, 2021. Pursuant to IC 5-11-10.5-3 through 5, both offices were requesting permission to void the attached warrants and record receipts back into the funds from which they were drawn.

Schedule A reflected the Utilities Accounts Payable through Dec. 31, 2021, totaling \$2,559.73.

Schedule B reflected the City outstanding warrants through December 31, 2021, totaling \$2,657.29.

Nichols/Myers made a motion to allow the Clerk-Treasurer's Office and Utilities Office to void \$5,217.02 in outstanding warrants dated on or before Dec. 31, 2021. Motion passed 5-0.

**20) Water & Sewer Office request: Move \$1,941.51 in uncollected finaled accounts from active to collection, sewer liens and write offs for the period through Nov. 22, 2023**

City Director of Public Works & Utilities Dustin Sailor asked the Board to move the Goshen Water and Sewer Office's uncollected finaled accounts from active to Collection, Sewer Liens and Write offs.

The original amount of unpaid final Water/Sewer accounts for the period through Nov. 22, 2023 was \$3,396.04.

Collection letters were sent out and payments of \$1,454.53 were collected. The uncollected amount was \$1,941.51. So, Sailor asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs for the period.

Nichols/Myers made a motion to move the Goshen Water and Sewer Office's uncollected finaled accounts from active to Collection, Sewer Liens and Write offs for this period. Motion passed 5-0.

**21) Water & Sewer Department request: Approve closure at 304 South 6th Street, between East Jefferson and Madison streets, from Feb. 27 through March 1, 2024**

Marvin Shepherd, the Superintendent of the City Water Treatment and Sewer Department, told the Board that his department will be replacing a sewer tap at 304 S 6th St. He said the work will require excavation of the road, with a trench that will be approximately 12 feet in depth.





For the safety of the work crews and the public, **Shepherd** said the Water and Sewer Department was requesting permission to close 6th Street, between East Jefferson Street and Madison Street, to traffic starting at 8 a.m. on Tuesday, Feb. 27, 2024 and reopening for traffic on Friday evening of March 1, 2024. He said the department will notify Goshen Schools, EMS and ensure that the garbage is moved to the appropriate location for pickup. Noting that March 1 is First Friday, **Board member Landis** asked if unexpected issues could have an impact on its events. **Mayor Leichty** said the March 1 First Friday will be a low-key event and she didn't anticipate a large crowd, so a longer closure wouldn't be an issue. **Shepherd** said if the work goes badly, the closure could be extended. **Nichols/Myers made a motion to close South 6th Street, between East Jefferson Street and Madison Street, to traffic starting at 8 a.m. on Tuesday, Feb. 27, 2024 and reopening for traffic on Friday evening of March 1, 2024. Motion passed 5-0.**

**22) Engineering Department request: Approve the removal of the two stop signs on Hay Parkway at Northstone Road.**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the City Traffic Commission has requested the removal of the two stop signs along Hay Parkway that now make the three-legged intersection with Northstone Road an all-way stop.

In 2018, **Sailor** said the Traffic Commission approved a recommendation to the Board of Public Works and Safety for the addition of "Cross Traffic Does Not Stop" sign to be placed on the stop sign on Northstone Road at Hay Parkway. However, he said the Board of Public Works and Safety decided that it would be best to install two additional stop signs along Hay Parkway making the intersection an all-way stop. He said an issue was speed control by the park.

**Mayor Leichty** said this was a "tough" issue. He asked if **Sailor** supported the Traffic Commission's recommendation. **Sailor** responded that he is a "non-voting participant" on the commission.

**Mayor Leichty** asked **Sailor** what his counsel was to the Traffic Commission. **Sailor** said stop signs aren't meant to be speed control devices and if following official guidelines, there would not be stop signs at the location. However, he said there is a park nearby and these stop signs probably provide some speed control.

**Mayor Leichty** said the street is a long distance and motorists can pick up a lot of speed. She said she knows the area well.

**Sailor** said the City Engineering has received a request further south on Northstone Road and is doing a study to determine the need for additional stop signs. He said the request was tabled pending further information.

In response to a question from **Board member Swartley**, **Sailor** confirmed there have been requests for a lower speed limit in the area.

**Board member Landis** asked about the possibility of removing the stop signs but adding speed bumps. **Mayor Leichty** said the Street Department might have concerns about that, especially with snow plowing.

**Clerk-Treasurer Aguirre** reminded the Board that included in the agenda packet was a letter from Gary Haney, the vice president of the Villas of Park Meadows Homeowners Association Board, supporting the removal of the stop signs. So, he said there was some neighborhood support for this recommendation.

**Mayor Leichty** said children frequently cross the street to get to the park. Other **Board members** commented on the traffic in the area and safety around parks. **Board member Landis** said he wasn't willing to rescind his prior decision.

**Mayor Leichty** said it appeared the Board opposed the request.

In response to a question from **Board member Landis**, **Sailor** and **City Street Commissioner David Gibbs** clarified the pending request for additional stop signs. **Sailor** said he normally wouldn't recommend more stop signs.

**Nichols/Myers made a motion to decline the Traffic Commission's request for the removal of the two stop signs on Hay Parkway at Northstone Road. Motion passed 5-0.**



**23) Engineering Department request: Approve Director of Public Works to sign the Indiana Finance Authorities' Scope of Work Certification Form allowing the IFA and a Service Firm to enter into a contract accessing Type III funds valued at \$300,000 for the Water Utility**

**City Director of Public Works & Utilities Dustin Sailor** informed the Board that per Federal Registrar 40 CFR §141, National Primary Drinking Water Regulations, public water systems are required to inventory their water system for the presence of lead, and the inventory is to be completed by October 16, 2024.

**Sailor** indicated that inventorying the water system for lead is a significant task, and the Indiana Finance Authority (IFA) is offering Indiana public water systems financial assistance. There are currently three types of grants available to assist community water systems:

**Project Type I - Utility Records Review & Analysis (\$25,000).** The gathering, researching, digitizing, and reviewing of utility records, local codes, tax parcel information, and other available data to generate a records-based inventory.

**Project Type II - LSL Replacement Planning (\$20,000).** The development of a plan to replace lead service lines in conjunction with other city projects and/or prioritizing at-risk or disadvantaged communities as well as other activities related to the incorporation of service line information into the water system's Asset Management Program.

**Project Type III - Service Line Inspection & Inventory Validation (\$300,000).** Onsite investigations of service line materials to supplement, inform or validate utility records or inventory models.

**Sailor** said the Goshen Water Utility has already received funding for project Types I and II and is now applying for Type III grant funding. Application for this funding is due Feb. 29, 2024.

Unlike typical service engagements with public utilities, all three of these grant funds, require the water system to establish a Service Provider with whom the IFA contracts directly on behalf of the Utility. Goshen Water Utility has developed its current Service Line Inventory working under this type of arrangement for project types I and II.

**Sailor** said in order to certify that the City of Goshen's Water Utility has selected a Consulting firm to perform the work summarized on the Scope of Work Certification Form and is detailed in the 13-page LSL Inventory Funding Program Application, an Authorized Representative of the City must sign the Certification Form. He asked the Board for permission to sign the certification form.

**Nichols/Myers made a motion to approve Director of Public Works Dustin Sailor signing the Indiana Finance Authorities' Scope of Work Certification Form allowing the IFA and a Service Firm to enter into a contract accessing Type III funds valued at \$300,000 on behalf of the Goshen Water Utility. Motion passed 5-0.**

**24) Engineering Department request: Approve the agreement with Abonmarche Group for the completion of four topographical surveys for a cost of \$19,800**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the City Engineering Department wants to engage the Abonmarche Group to perform topographical surveys at four locations: public parking lot 'Q', Central Fire Station parking lot and alley, City Hall property and two adjacent parking lots, and Alley 226.

**Sailor** indicated the surveys will be utilized by the Engineering Department to complete project designs. The Request for Quote was sent to three firms. Two of the three firms responded. The received quote amounts are listed below.

- Abonmarche Group – \$19,800.00
- A & Z Engineering – \$34,700.00
- Jones Petrie Rafinski – No quote received

**Nichols/Myers made a motion to approve an agreement with Abonmarche Group for the completion of four topographical surveys for a cost of \$19,800 and authorize the Mayor to sign the agreement. The motion passed 5-0.**



**25) Engineering Department request: Approve American Structurepoint's Amendment No. 2 to increase the geotechnical services fee by \$19,298 to match INDOT's service schedule**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the American Structurepoint continues to work through the design process for the College Avenue Phase 1 project, U.S. 33 to the railroad.

**Sailor** indicated that a key component of the design is the geotechnical work. Since signing the professional engineering services contract, the Indiana Department of Transportation's standard rates for geotechnical services have increased. The geotechnical subconsultant to American Structurepoint has requested their standard fee be increased accordingly. Because LPA projects take years to develop, City Engineering staff members believes the request is valid and supports the sub-consultant's request.

The increase in the geotechnical service fee is \$19,298 and will be ran through American Structurepoint's contract.

The Goshen Redevelopment Commission approved funding this amendment at its meeting on Feb. 13, 2024.

Goshen Engineering asked the Board to sign the agreement amendment.

**Nichols/Myers made a motion approve American Structurepoint's Amendment No. 2 to increase the geotechnical services fee in the amount of \$19,298 to match INDOT's service schedule. Motion passed 5-0.**

**26) Engineering Department request: Approve American Structurepoint's Amendment No. 4 to increase the quiet zone professional service fee by \$58,425**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the City's railroad quiet zone application has been prepared and is ready for submission less the Elkhart County delegation letter for the County Road 42 railroad crossing.

**Sailor** said an interlocal agreement is currently being prepared to finalize this task. Once the task is complete, the application will be submitted to the Federal Railroad Administration.

American Structurepoint staff members have reviewed their current effort to date and have projected the effort that will be required to complete the quiet zone application and implementation process. Structurepoint offers a work scope amendment that includes:

- a. Coordinate Delegation Letter
- b. Prepare and submit Notice of Intent
- c. Respond to NOI questions/comments
- d. Prepare Public Authority Application
- e. Prepare Notice to Establish
- f. Revisions
- g. Project management
- h. Railroad/Agency coordination
- i. Client meetings (3)

**Sailor** said for these additional services, American Structurepoint offers a service fee increase of \$58,425. He said Goshen Engineering has found American Structurepoint's assistance on this project invaluable and supports their continued service and proposed fee.

The Goshen Redevelopment Commission approved funding this amendment at their meeting on Feb. 13, 2024.

Goshen Engineering asked the Board to sign the agreement amendment.

**Mayor Leichty** said she was happy about the progress being made to complete the process later this year.

**Nichols/Myers made a motion to approve American Structurepoint's Amendment No. 4 to increase the quiet zone professional service fee in the amount of \$58,425. Motion passed 5-0.**



**27) Engineering Department request: Approve and authorize Change Order No. 3 for the 10th Street and Douglas Street Reconstruction project in the amount of \$14,674.68, bringing the total contract to \$4,295,386.08, an increase of 1.10%**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that attached to the agenda packet was Change Order No. 3 for the 10th Street and Douglas Street Reconstruction project.

**Sailor** said Change Order No. 3 includes costs related to fittings and 4-inch valves for the Ariel Cycleworks water main, as well as costs related to removing sanitary structures on Douglas Street and abandoning a sanitary main under the railroad tracks on Douglas Street.

**Sailor** said the original contract amount, plus additions from Change Order No. 1 and Change Order No. 2, was \$4,280,711.40. Change Order No. 3 increases the total contract by \$14,674.68, for a revised contract amount of \$4,295,386.08, which is an increase of 1.10% over the original contract amount. No days are being added to the project for this work.

**Nichols/Myers made a motion to approve and authorize Change Order No. 3 for the 10th Street and Douglas Street Reconstruction project in the amount of \$14,674.68, bringing the total contract to \$4,295,386.08, an increase of 1.10%. Motion passed 5-0.**

**28) Engineering Department request: Approve and authorize the Board to execute the Agreement with Oaklawn Psychiatric Center Inc and Freedom Builders for the Completion of the Horizons of Hope building addition project at 215 Lakeview Drive**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the Stormwater Department was requesting the approval of an agreement for the Completion of Construction for the Horizons of Hope project located at 215 Lakeview Drive.

**Sailor** said the building has passed its final building inspection and the project is substantially complete except for the 11,000 square feet of disturbed area that will be seeded and stabilized. This final requirements cannot be completed at this time due to weather conditions.

The property owner, Oaklawn Psychiatric Center Inc., and the builder, Freedom Builders, agree to complete all stabilization and seeding work by June 15, 2024. The expected cost of work is \$3,500 and a surety check in that amount has been remitted to the Clerk-Treasurer's Office.

**Nichols/Myers made a motion to approve and authorize the Board to execute an agreement with Oaklawn Psychiatric Center Inc. and Freedom Builders for the Completion of the Horizons of Hope building addition project at 215 Lakeview Drive. Motion passed 5-0.**

**29) Engineering Department request: Approve and authorize the Board to execute the Agreement with Integrity Remodeling & Construction for the Completion of the project at 1507 South 11th Street**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the Stormwater Department was requesting the approval of an agreement for the Completion of Construction for the home at 1507 South 11th Street.

**Sailor** said the home has passed its final building inspection and the project is substantially complete. Items to be completed include: 325 square feet of concrete driveway to be installed, 528 square feet of gravel base and concrete for a parking pad, 125 square feet of gravel base and concrete for sidewalks installed on the front and back, and 5,568 square feet of disturbed area stabilized and grass seed to be planted. These final requirement cannot be completed at this time due to weather conditions.

**Sailor** said the property owner, Integrity Remodeling & Construction ,agrees to complete all concrete and stabilization work by June 15, 2024. The expected cost of work is \$9,820 and a surety check in that amount has been remitted to the Clerk-Treasurer's Office.



Nichols/Myers made a motion to approve and authorize the Board to execute an agreement with Integrity Remodeling & Construction for the Completion of the project at 1507 South 11th St. Motion passed 5-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):

Mayor Leichty opened Privilege of the Floor at 5:31 p.m. There were no comments.

At 5:31 p.m. Mayor Leichty recessed the Board of Public Works and Safety meeting and opened public hearings to review orders of the City of Goshen Building Commissioner for two Goshen properties.

**CITY BOARD OF PUBLIC WORKS & SAFETY PUBLIC HEARINGS:**

4:00 p.m., February 22, 2024

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Members: Mayor Leichty, Mike Landis, Orv Myers, Mary Nichols, Barb Swartley

30) Review of the Order of the City of Goshen Building Commissioner for 304 West Oakridge Avenue (Roman Navarro, property owner)

At 5:31 p.m., Mayor Leichty convened a hearing to review the Order of the City of Goshen Building Commissioner for 304 West Oakridge Avenue (Roman Navarro, property owner).

**BACKGROUND:**

An unsafe building review hearing on the Nov. 27, 2023 demolition Order of the City of Goshen Building Commissioner by the City Board of Public Works & Safety was scheduled Jan. 25, 2024 for the property located at 304 West Oakridge Avenue (Roman Navarro, property owner). The Board of Public Works and Safety needed to conduct the hearing and affirm, rescind, or modify the Building Commissioner's Order and determine what action to order concerning the property.

Along with hearing evidence, questioning witnesses, reviewing the record and making findings, the Board had the option of affirming the Building Commissioner Order (if it agreed with demolition), rescinding the Order (if property violations had been fixed), or modifying the Order (if it believed that the property could be fixed). It could also postpone the hearing to a future date.

According to a Jan. 25, 2024 memorandum from the City Legal Department to the Board of Works, the Jan. 25 hearing was scheduled for the consideration of evidence and a decision on the Order requiring: ***“Demolition of the unsafe buildings at the Real Estate and removal of all demolition remains, trash, and debris on the Real Estate and return the site to natural grade, all of said work to be completed on or before Feb. 29, 2024.”***

Building Commissioner Myron Grise identified the following City Code violations in his Nov. 27, 2023 Order:

1. **The foundation is failing, making the structure likely to collapse**, a violation of Sections 6.3.1. l(b) and (r). The foundation wall on the west side of the structure has collapsed, and the earth beneath it has washed (away) causing the concrete to collapse into the basement. The collapsed foundation wall renders the entire structure in danger of collapse. The floor has started to sag as a result of the failing foundation.

2. **The structure has become so dilapidated and deteriorated that it has become freely accessible**, a violation of Section 6.3.1. l(w). The collapsed foundation wall and concrete makes the structure a danger to anyone who enters.



3. **The chimney is not structurally sound**, a violation of Section 6.3.1. I(z). Areas of the chimney are failing.
4. **There is no working heating and mechanical system** at the structure, a violation of Section 6.3.1. I(a).
5. **There is no working plumbing system** at the structure, a violation of Section 6.3.1. I(a).
6. **There is no working electrical system** at the structure, a violation of Section 6.3.1. I(a). There is also loose exposed electrical wiring throughout the structure.
7. **The windows have not been kept in good repair**, a violation of Section 6.3.1. I(d). There are multiple broken windows that have been boarded up.

**Building Commissioner Grise** concluded in his report that the residential structure located at 304 West Oakridge Avenue was unsafe within the meaning of Indiana Code § 36-7-9-4(a)(1), (2), (5), and (6). He wrote, "The collapsed foundation wall on the west side, permitting earth to wash into the basement and causing the floor to sag, renders the structure in an impaired structural condition that makes it unsafe to person or property. The dilapidated nature of the structure, its deterioration due to neglect, its loose exposed electrical wiring, and its unsecured nature makes it a fire hazard. The structure is dangerous to person or property because of violations of the Neighborhood Preservation Ordinance, particularly violations concerning the collapsed foundation wall, failing chimney, and unsecured nature. The structure is vacant and not maintained in a manner that permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance."

**Commissioner Grise** further wrote, "Due to the collapsed foundation wall and the failing chimney, combined with the unsecured nature of the structure and its continued deteriorated as a result of neglect, the structure warrants removal. In its present condition, the structure is unfit for human habitation, occupancy, or use, and the conditions exist to the extent that life, health, property, and safety of the public is threatened. The structure is an unsafe building and the tract of real property on which the unsafe building is located shall be considered the unsafe premises."

**Commissioner Grise** ordered the property owner to "demolish the unsafe buildings identified in Section 2 of this Order at the property identified in Section 1 of this Order and remove all demolition remains, trash, and debris on the unsafe premises and return the site to natural grade."

**The Jan. 25, 2024 Board hearing was scheduled because the time to complete the demolition required by the Building Commissioner's Order had passed and the conditions and violation cited in the Order still existed. The Building Commissioner determined the cited conditions rendered the building and residential structure to be unsafe and that it should be demolished.**

Before the meeting began, **City Building Inspector Travis Eash** distributed to Board members a memorandum and report, dated Jan. 25, 2024, on 304 West Oakridge Avenue which included photographs of the property showing its condition as of an Oct. 24, 2023 inspection.

At the Jan. 25, 2024 hearing, **Assistant City Attorney Don Shuler** provided brief background of the case.

Reading from his Jan. 25, 2024 report to the Board, **City Building Inspector Eash** discussed the findings of his Oct. 24, 2023 inspection of the property. He stated that the structure had multiple violations but the most severe and most unsafe was a foundation wall on the west side of the structure that was 15 to 20 ft long that has completely collapsed, which has caused the ground to fail causing the sidewalk and driveway to collapse as well.

**Eash** also said, "The floor has begun to sag due to improper support and is unsafe to walk. This area has become a danger to anyone who walks the premises. This makes entering the structure unsafe. Some other violations are no working plumbing system, electrical system or heating system. There are broken windows on the property and the chimney is beginning to fail and has loose bricks."

**Eash** concluded, "Due to the severity and danger of the foundation wall collapse and the lack of structural integrity, the Building Department's recommendation is that the structure be determined unsafe and demolished."

**Ramon Navarro**, the owner of 304 West Oakridge Avenue, said he agreed with Eash that work needed to be done at the structure. Unfortunately, he said work has not been done because he has been in bankruptcy since before the inspection. He said, "It's not that I don't want to fix the stuff; is that I financially can't right now."



Since this was his first time before the Board of Works & Safety, **Navarro** said he wasn't sure about his options. He said he couldn't afford to fix any of the problems. He said repairing the foundation would cost about \$64,000 and tearing it down would cost about \$32,000. So, he said he didn't know what options were available because anything recovered from the bankruptcy would be used to pay back creditors.

**Navarro** said the property is an old grocery store that was originally opened in 1989. He said the store was moved to another location and the old building was later used for storage.

In response to a question from **Mayor Leichty**, **Navarro** said he agreed with the City's proposed demolition of the building. He said that is something he has wanted to do but can only commit to demolishing the structure in stages because doing so all at once would be impossible because of his financial situation. He said the City could demolish the building and send him a bill, but he didn't know how long before that could be paid because of the bankruptcy.

**City Attorney Bodie Stegelmann** said he was concerned that the property was likely an asset of the bankruptcy estate. He said the City Legal Department was unaware the property was in bankruptcy. Stegelmann said before the Board took any kind of action, time was needed to explore the issue and discuss options with Navarro before the Board further considered the matter in a few weeks.

**On Jan. 25, 2024, Landis/Swartley made a motion to continue the hearing on the Order of the City of Goshen Building Commissioner for 304 Oakridge Avenue to Feb. 22, 2024 to explore the issues. Motion passed 5-0.**

#### **DISCUSSION AND OUTCOME OF CONTINUED HEARING ON FEB. 22, 2024:**

**Assistant City Attorney Don Shuler** provided the background of 304 Oakridge Avenue and the outcome of the Jan. 25 hearing. He said the matter was back for a report on how the bankruptcy would affect the case.

**Shuler** said the City Legal Department has determined that enforcement of the municipal unsafe building process is exempt from the automatic stay of bankruptcy proceedings. So, **Shuler** said there was no reason to delay action and he requested that the Board affirm the Order of the Building Commissioner requiring demolition of the unsafe building at the property. He said the property owner, **Roman Navarro**, was present and might want to comment.

**Mayor Leichty** swore in **Roman Navarro** to give truthful testimony.

**Navarro** said he had wanted to make sure legal precedents were checked and that that City action could be taken despite the automatic stay in proceedings. He said he also wanted to make sure there was documentation of this action to protect himself from the bankruptcy court and the mortgage company.

**Shuler** said he could provide documentation to Navarro and his attorney. **Shuler** added that he was only asking the Board to approve the demolition and would be in contact with Navarro about the details of the later demolition.

**City Attorney Bodie Stegelmann** said an automatic stay during bankruptcy proceedings would restrict the City from trying to collect money or seize assets from Navarro, but the City was still allowed to take action like this. He said the Board was only being asked to affirm the City Building Commissioner's order and order the demolition.

**Nichols/Myers made a motion to affirm the City Building Commissioner's order that the building was unsafe and warranted demolition and affirm the demolition order. Motion passed 5-0.**

**31) Review of the Order of the City of Goshen Building Commissioner for 601 North 5<sup>th</sup> Street (Ronald E. Davidhizar, property owner)**

**At 5:37 p.m., Mayor Leichty convened a hearing to review the Order of the City of Goshen Building Commissioner for 601 North 5<sup>th</sup> Street (Ronald E. Davidhizar, property owner).**



#### **BACKGROUND:**

In a memorandum dated Feb. 19, 2024, Assistant City Attorney Don Shuler informed the Board of Public Works and Safety that an **unsafe building review hearing was scheduled for Feb. 22, 2024 for the property located at 601 North 5th Street (Ronald E. Davidhizar, property owner)** pursuant to an Order of the City of Goshen Building Commissioner dated Jan. 10, 2024.

**Shuler** wrote that the Board of Public Works and Safety needed to conduct the hearing and affirm, rescind, or modify the Building Commissioner's Order and determine any further action it would order concerning the property and its owner, including the possibility of a civil penalty for a willful failure to comply with the Building Commissioner's Order. **Shuler** wrote that the Building Department was requesting that the Board affirm the Building Commissioner's Order and issue a civil penalty for a willful failure to complete the actions required in the time given. To issue a civil penalty, Shuler wrote that the Board needed to make a finding that due to the lack of work and progress made towards the ordered repairs, there has been a willful failure to comply with the Building Commissioner's order, and a civil penalty against the property owner should be imposed.

In his Jan. 10, 2024 order, **Building Commissioner Myron Grise** notified the property owner that in violation of -the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1.

**Grise** wrote that the violation was the existence of a residential structure that was filled with trash, debris, materials, and insects that made it uninhabitable. He reported the dwelling units inside the structure "have not been kept in a clean and sanitary condition that would permit human habitation, occupancy, or use" and that there were damaged ceilings and walls.

Therefore, **Grise** wrote that the structure was unsafe within the meaning of Indiana Code § 36-7-9-4(a)(4), (5), and (6) and that its damaged and deteriorated condition, the accumulated trash and debris, the existence of an insect infestation, and the general disrepair of the structure rendered it a public nuisance and dangerous to persons.

**Grise** ordered the property owner to complete the necessary actions and repairs to the residential structure to bring the property into compliance with the minimum housing standards that permit human habitation, occupancy, or use under the Neighborhood Preservation Ordinance. He specifically ordered the following repairs within 30 days:

- Remove all trash, debris, and any fire hazardous material from inside the unsafe building so the same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance;
- Extermination of insects and vermin in and about the unsafe premises;
- Repair and rehabilitation of damaged walls and ceilings so that the same are reasonably weather tight and rodent proof, capable of providing privacy, and otherwise in good repair, as required by the Neighborhood Preservation Ordinance;
- Install smoke detectors in each dwelling unit as required by the Neighborhood Preservation Ordinance.

**Grise** notified the property owner that a failure to comply could result in the City taking action to complete the required work and submitting a bill for the cost of the work. And he informed the property owner that a hearing would be conducted on Feb. 22 to review the Building Commissioner's order.

Before the meeting began, **City Rental Inspector Ryan Conrad** distributed to Board members a memorandum and report, dated Feb. 22, 2024, on 601 North 5th Street which included photographs of the property showing its condition as of an Feb. 20, 2023 inspection (**EXHIBIT #1**).

#### **DISCUSSION AND OUTCOME OF HEARING ON FEB. 22, 2024:**

**Assistant City Attorney Don Shuler** gave the background on the City Building Commissioner's unsafe building order for 601 North 5th Street. He said the Board needed to conduct a hearing today and consider evidence from City staff and the property owner and then decide whether to affirm, modify or take other action on the Building Commissioner's order. He said **City Rental Inspector Ryan Conrad** was present to be sworn in and to present testimony about the property.





Mayor Leichty swore in **City Rental Inspector Ryan Conrad** to present truthful testimony.

**Reading from his Feb. 22, 2024 memorandum to the Board, Conrad said:**

"On Feb. 20, 2023, I was contacted by Goshen Police Department in reference to unsanitary and unsafe conditions at 601 N. 5th St. while they were on the property executing an arrest warrant. I made contact with the officers on the property and conducted an inspection.

"During my inspection, I observed trash, junk, and debris scattered throughout both the exterior and interior of this three-unit dwelling. The floors, walls, and plumbing fixtures were dirty. I observed urine and feces on the floors and in the bathtub of one of the units. I also observed areas where the ceiling was collapsing and there were walls that were in disrepair.

"I notified the property owner, Ron Davidhizar, in writing, of the code violations at this address. Notifications were hand delivered to the property owner on 2/23/23, 6/15/23, 12/7/23, and 12/28/23. I have received no response from the property owner nor were any violations corrected. To this date, the property owner must correct the following violations to bring the property into compliance:

- "Remove all trash, debris, and any fire hazardous material from inside the unsafe building so the same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance;
- "Extermination of insects and vermin in and about the unsafe premises;
- "Repair and rehabilitation of damaged walls and ceilings so that the same are reasonably weather tight and rodent proof, capable of providing privacy, and otherwise in good repair, as required by the Neighborhood Preservation Ordinance;
- "Install smoke detectors in each dwelling unit as required by the Neighborhood Preservation Ordinance.

**Conrad concluded with the following two statements:**

"The Building Department continues to receive complaints from neighbors about the condition of this property. So, I am recommending the Board order a civil penalty against the property owner in the amount of \$5,000. with the option of suspending the fine until March 14, 2024 if all of the violations have been corrected by that date."

**Mayor Leichty** asked the last time the property was inspect. **Conrad** said it was inspected "today" (Feb. 22, 2024). He said before that, the last inspection had been two years previously. He said the condition deteriorated rapidly. In response to the **Mayor's** question about the current occupancy, **Conrad** said two of the units are now vacant and this morning, the third unit was in the process of being vacated by noon. He said it should be totally vacant now.

**Mayor Leichty swore in property owner Ronald E. Davidhizar to give truthful testimony.**

**Davidhizar** said the property was a "real mess" and until recently, all three apartments have been inhabited by squatters. He said the property is about a half block from his residence and he drives by it frequently.

**Davidhizar** said he and his workers have been at the property frequently to clean up trash, especially over the past three weeks. He said the residents did not place their trash for pick up and threw it outside or inside the house. He said one of the original tenants was recently hit by a train and killed.

**Davidhizar** said the squatters claimed they had permission to live there. He said Goshen Police declined to evict the tenants and advised **Davidhizar** to contact his attorney. **Davidhizar** said that "take a while." Finally, he said a judge ordered the tenant to leave by noon today and he believes they have left.

**Davidhizar** said the property has dog feces, smells terribly and his workers have been taking out loads of trash. He said some doors have been replaced and he's "happy" to clean it, remove the trash and redecorate the units.

**Davidhizar** said the work has continued and progress has been made, but the person in charge of the work died in a traffic cash on Tuesday. He said other people will work on the property, but more work and time is required.

**Board member Myers** asked **Davidhizar's** timeline for the work. **Davidhizar** said he believed one apartment would be ready to be rented in 30 days.



**Davidhizar** said there has been extensive damage to the property.

**Board member Swartley** asked if only one apartment has been rented in the recent past. **Davidhizar** described the work that has been done and his efforts to rent the apartments amid a continuing problem of squatters and more damage. Now that he has an eviction order, **Davidhizar** said he believes police will help keep squatters out.

**Board member Nichols** asked **City Rental Inspector Conrad** if he has seen an improvement in the condition of the property. **Conrad** said he has not. He said the condition today was as bad as in the past. **Davidhizar** said he's not ready to install new drywall, because "truckloads" of trash still need to be removed.

**Mayor Leichty** expressed her sympathies to **Davidhizar** for the loss of his worker, Max. She said she understood the death was a considerable personal loss. That said, the Mayor said the City had a responsibility to adjacent property owners to make sure **Davidhizar's** property was safe and not attractive to squatters.

**Mayor Leichty** said the proposed order by the Building Commissioner was "fair and reasonable" and that the expectation that all required work be completed in 30 days was within **Davidhizar's** means. **Davidhizar** said it was for one apartment, but not the entire property. The Mayor said the required work would need to be completed for all three units or the past problems would be repeated.

In response to the **Mayor's** question about what **Davidhizar** would consider a reasonable time to make all of the repairs, **Davidhizar** said "90 days."

**Board member Landis** commented on the poor conditions of the units and said it shouldn't take 90 days to remove all of the trash. **Mayor Leichty** said the trash should be removed within a week, so as not to continue to attract vermin and give some relief to the neighbors.

**Board member Swartley** noted the City's many past attempts to notify **Davidhizar** of the problems at the property. She asked why he never responded. **Davidhizar** said he and his workers responded by hauling out trash. He said the property has also become a dumping ground for old tires.

**Board member Swartley** asked why the new doors **Davidhizar** installs have been kicked it. **Davidhizar** described the type of doors he has installed.

**Mayor Leichty** thanked **Davidhizar** for his testimony.

**Mayor Leichty** said she didn't see anything in the City Building Commissioner's order that she would disagree with. So, she said she was prepared to move forward with the recommendation, which she described as "fair and reasonable."

**City Attorney Bodie Stegelmann** said the Building Commissioner's original order was dated Jan. 10, 2024 and **Davidhizar** was given 30 days to make the repairs. And the order would provide for a civil fine if the work was not completed by March 14, 2024. **Assistant City Attorney Shuler** confirmed that understanding.

**Board members Landis** and **Nichols** clarified the Board's options. **Board member Landis** said if **Davidhizar** had taken action earlier, the Board would not have the matter before it now. He said he would support Board action now. **Davidhizar** said the suggestion that no work has been done was untrue. He said trash has been removed and repairs continuously made. He said it would take more than 30 days to do the required work.

**Mayor Leichty** said **Davidhizar** should have taken corrective steps earlier and kept in contact with the Building Department and not now be pleading his case to the Board. She said the steps he has taken have not been adequate. She encouraged **Davidhizar** to communicate with the Building Department in writing from now on.

**Nichols/Myers** made a motion that the Board finds that due to the lack of work and progress made toward the ordered repairs there has been a willful failure to comply with the City Building Commissioner's order and therefore the Board is issuing a civil penalty of \$5,000 on the property owner. Motion passed 5-0.



At 5:58 p.m., Mayor Leichty adjourned the hearings on the Orders of the City of Goshen Building Commissioner for two properties and reopened the Board of Public Works & Safety meeting.

Approval of Civil City and Utility Claims

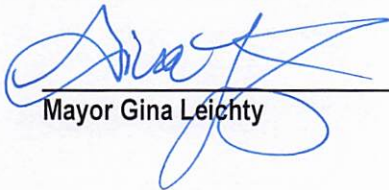
As all matters before the Board of Public Works & Safety were concluded, Mayor Leichty/Board member Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 5-0.

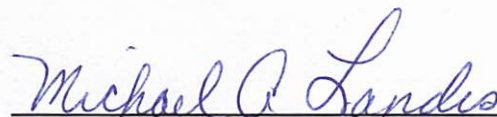
Adjournment


Mayor Leichty adjourned the Board of Works meeting at 5:58 p.m.

**EXHIBIT #1: A memorandum and report by City Rental Inspector Ryan Conrad, distributed to Board members and dated Feb. 22, 2024, on the property at 601 North 5<sup>th</sup> Street, which included photographs of the property showing its condition as of Feb. 20, 2023. The memorandum included an update on the status of the property. The report was submitted during and for consideration of agenda item #31.**


APPROVED:

  
\_\_\_\_\_  
Mayor Gina Leichty

  
\_\_\_\_\_  
Mike Landis, Member

  
\_\_\_\_\_  
Orv Myers, Member



  
\_\_\_\_\_  
Mary Nichols, Member

\_\_\_\_\_  
Barb Swartley, Member

ATTEST:

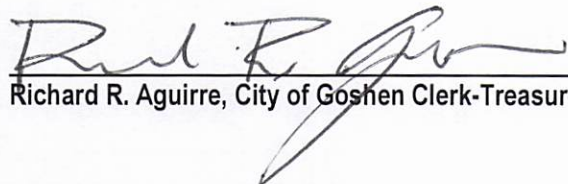
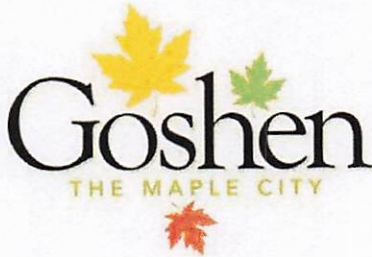
  
\_\_\_\_\_  
Richard R. Aguirre, City of Goshen Clerk-Treasurer

EXHIBIT #1



**Building Department  
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185  
building@goshencity.com • www.goshenindiana.org

## MEMORANDUM

**TO: Board of Public Works**

**FROM: Ryan Conrad, Building Department**

**DATE: February 22, 2024**

**SUBJECT: 601 N. 5<sup>th</sup> St.**

On February 20, 2023, I was contacted by Goshen Police Department in reference to unsanitary/ unsafe conditions at 601 N. 5<sup>th</sup> St. while they were on the property executing an arrest warrant. I made contact with officers on the property and conducted an inspection.

During my inspection, I observed trash, junk, and debris scattered throughout both the exterior and interior of this three-unit dwelling. The floors, walls, and plumbing fixtures were dirty. I observed urine and feces on the floors and in the bathtub of one of the units. I also observed areas where the ceiling was collapsing and there were walls that were in disrepair.

I notified the property owner, Ron Davidhizar, in writing, of the code violations at this address. Notifications were hand delivered to the property owner on 2/23/23, 6/15/23, 12/7/23, and 12/28/23. I have received no response from the property owner nor were any violations corrected. To this date, the property owner must correct the following violations to bring the property into compliance:

- Remove all trash, debris, and any fire hazardous material from inside the unsafe building so the same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance;
- Extermination of insects and vermin in and about the unsafe premises;
- Repair and rehabilitation of damaged walls and ceilings so that the same are reasonably weather tight and rodent proof, capable of providing privacy, and otherwise in good repair, as required by the Neighborhood Preservation Ordinance;
- Install smoke detectors in each dwelling unit as required by the Neighborhood Preservation Ordinance.

The Building Department continues to receive complaints from neighbors about the condition of this property. I am recommending the Board order a civil penalty against the property owner in the amount of \$5,000. with the option of suspending the fine until March 14, 2024 if all of the violations have been corrected by that date.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Ryan Conrad", with a period at the end.

Ryan Conrad  
Rental Housing Inspector  
Building Department

**ORDER OF THE CITY OF GOSHEN BUILDING COMMISSIONER**

January 10, 2024

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To: Ronald Davidhizar  
203 Middlebury Street  
Goshen, Indiana 46528

**Section 1.**

You are hereby notified that you are in violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1. The violations exist at property owned by you, as evidenced by the tax records of the Elkhart County Auditor, property tax code number 20-11-09-204-018.000-015; commonly known as 601 N. Fifth Street, Goshen, Indiana, and more particularly described as follows:

LOT NUMBER NINETEEN (19) EXCEPT THE NORTH TWENTY-SIX AND ONE HALF (26-1/2) FEET, AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF JAMES MAYFIELD'S 3RD ADDITION TO THE CITY OF GOSHEN; SAID PLAT BEING RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

**Section 2.**

The violation is the existence of a residential structure that is filled with trash, debris, materials, and insects that makes it uninhabitable. The dwelling units inside the structure have not been kept in a clean and sanitary condition that would permit human habitation, occupancy, or use under the City of Goshen's Neighborhood Preservation Ordinance. Further, there are damaged ceilings and walls that constitute violations of the Neighborhood Preservation Ordinance.

Therefore, the residential structure located on the real estate is unsafe within the meaning of Indiana Code § 36-7-9-4(a)(4), (5), and (6). The damaged and deteriorated condition of the structure, the accumulated trash and debris, the existence of an insect infestation, and the general disrepair of the structure renders it a public nuisance; dangerous to persons due to violations of the Neighborhood Preservation Ordinance, particularly Ordinance provisions requiring clean and sanitary conditions for human habitation; and the structure is vacant or blighted and not

maintained in a manner that permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance.

### **Section 3.**

You are hereby **ORDERED** to complete the necessary actions and repairs to the residential structure to bring the property into compliance with the minimum housing standards that permit human habitation, occupancy, or use under the Neighborhood Preservation Ordinance. Said actions and repairs, among other considerations, must include the following:

- Remove all trash, debris, and any fire hazardous material from inside the unsafe building so the same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance;
- Extermination of insects and vermin in and about the unsafe premises;
- Repair and rehabilitation of damaged walls and ceilings so that the same are reasonably weather tight and rodent proof, capable of providing privacy, and otherwise in good repair, as required by the Neighborhood Preservation Ordinance;
- Install smoke detectors in each dwelling unit as required by the Neighborhood Preservation Ordinance.

You are hereby **FURTHER ORDERED** to complete all said work within thirty (30) days.

### **Section 4.**

You are hereby notified that failure to comply with this Order may result in the City of Goshen taking action to complete the required work and bill you for the costs of such work, including, the actual costs of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the real estate and can ultimately be enforced in the same manner as any other judgment.

### **Section 5.**

You are further notified that a hearing will be held before the Goshen Board of Public Works and Safety on **Thursday, February 22, 2024 at 4:00 p.m. (local time)**, or soon thereafter, for the purpose of reviewing the Order of the City of Goshen Building Commissioner. This hearing will be held in the Court Room / Council Chambers at 111 East Jefferson Street, Goshen, Indiana.

You have the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses, and present arguments. Should you fail to appear at the time set for the hearing, the hearing will be conducted in your absence. The Goshen Board of Public Works and Safety will have the right to affirm, rescind, or modify this Order.



**Section 6.**

You are hereby notified that as a result of this Order being issued you may not transfer or agree to transfer any property interest in the parcel described in Section 1 of this Order, unless you have complied with all requirements of Indiana Code § 36-7-9-27, which are as follows:

1. You must supply full information regarding this Order to the person or persons taking or agreeing to take any interest in the parcel described in Section 1 of this Order.
2. You must supply in writing to the City of Goshen Building Department, within five (5) days of any actions to transfer the interest, the following:
  - a. The full name, address, and telephone number of the person or persons taking interest in the property described in Section 1 of this Order; and
  - b. A copy of the legal instrument under which the transfer of the interest is accomplished.

**Section 7.**

You are hereby notified that failure to comply with Section 6 of this Order may result in a judgment of liability against you in accordance with Indiana Code § 36-7-9-27.

**Section 8.**

This Order is issued by the City of Goshen Building Commissioner, Myron Grise, in accordance with the Indiana Unsafe Building Law and the City of Goshen Neighborhood Preservation Ordinance. The address of the Building Commissioner is 204 E. Jefferson Street, Suite 5, Goshen, Indiana 46528, and the telephone number is 574-534-1811.

This Order of the City of Goshen Building Commissioner is issued on January 10, 2024.

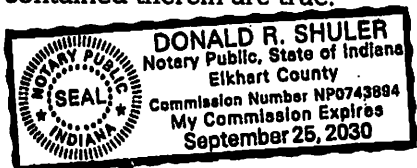
City of Goshen Building Department

  
\_\_\_\_\_  
Myron Grise, Building Commissioner

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ELKHART        )

Before me, the undersigned, a Notary Public in and for said county and State, this January 9, 2024, personally appeared Myron Grise, Building Commissioner for the City of Goshen, Indiana, who acknowledged execution of the foregoing Order for and on behalf of the City of Goshen, Indiana Building Department, as his voluntary act for the purposes stated therein, and who, having been duly sworn, stated that the representations contained therein are true.


  
\_\_\_\_\_  
Notary Public



**Certificate of Service**

The undersigned hereby certifies that the foregoing Order of the City of Goshen Building Commissioner for the premises at 601 N. Fifth Street, Goshen, Indiana was served by sending a copy by certified mail, return receipt requested and by regular first-class mail to the last known address of the following persons to be notified on January \_\_\_\_\_, 2024:

Ronald Davidhizar  
203 Middlebury Street  
Goshen, Indiana 46528

  
\_\_\_\_\_  
Donald R. Shuler, #26587-71  
Assistant City Attorney  
City of Goshen Legal Department  
204 East Jefferson Street, Suite 2  
Goshen, Indiana 46528

I affirm under the penalties for perjury that I have taken reasonable care to redact each social security number in this document, unless required by law (Donald R. Shuler).

This document prepared by Donald R. Shuler, Assistant City Attorney, City of Goshen Legal Department, 204 E. Jefferson Street, Suite 2, Goshen, IN 46526; Ph: 574.537.3855.



Trash, junk, debris in kitchen, Apt. 3.



Trash, junk, debris in kitchen, Apt. 3.



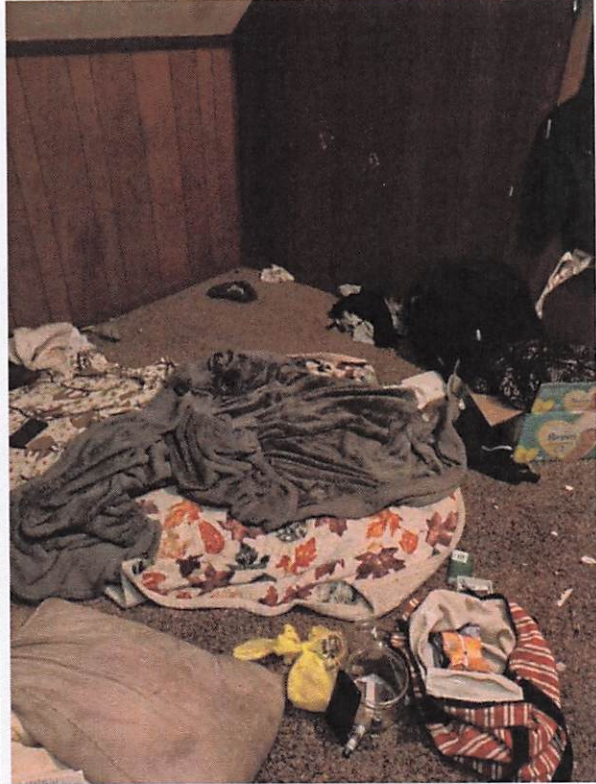
Exterior trash, junk, debris.



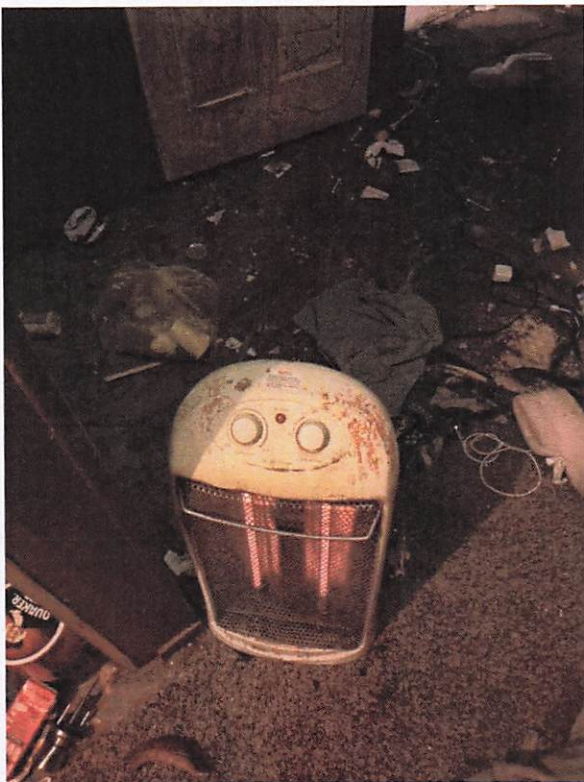
Exterior trash, junk, debris.



Ceiling in disrepair, Apt. 3.



Unsanitary conditions, Apt. 3.



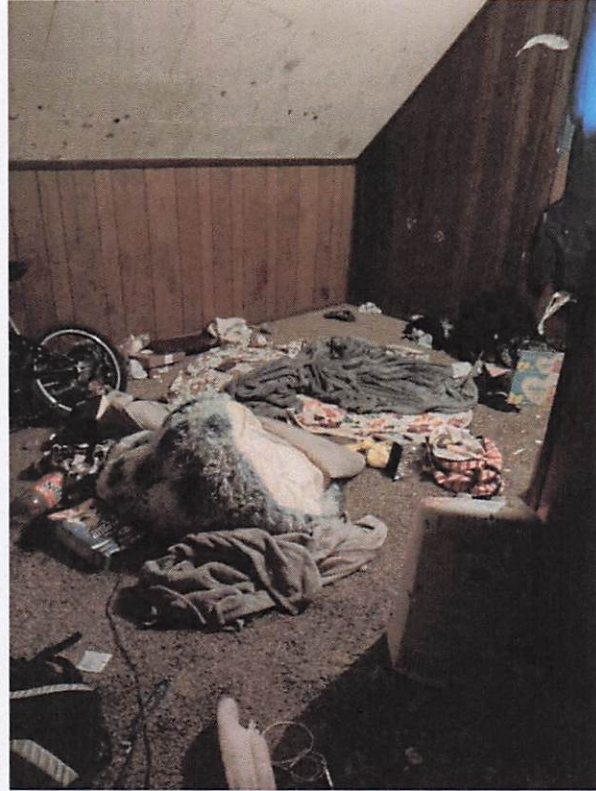
Space heaters in use, Apt. 3.



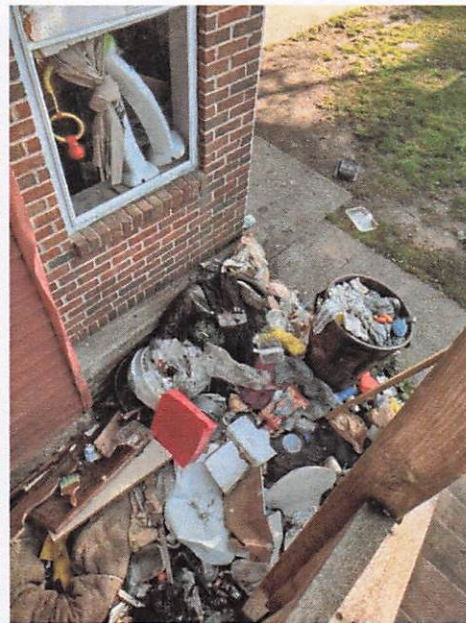
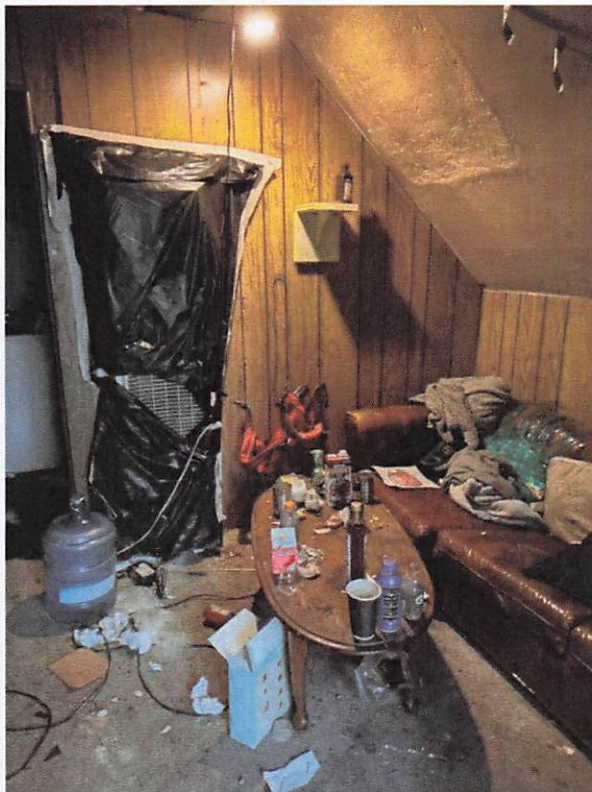
Unsanitary conditions in kitchen, Apt. 3.

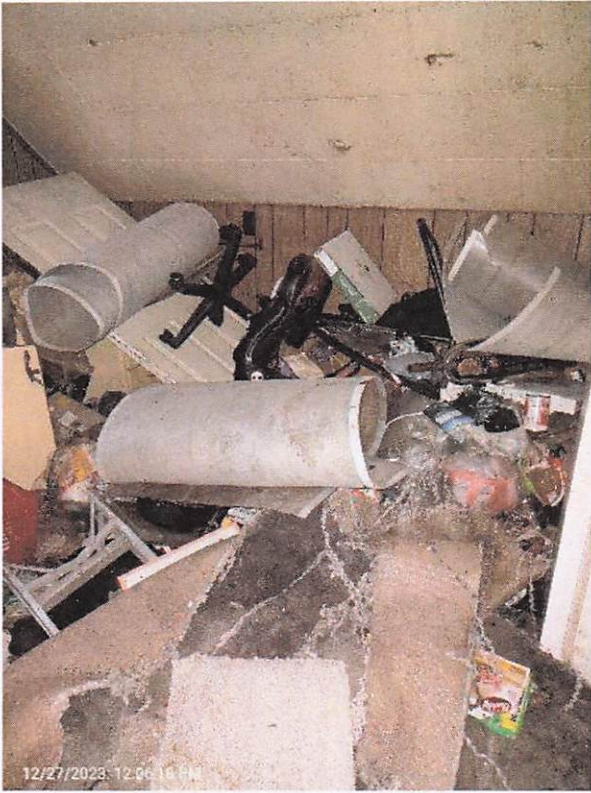


Exterior trash, junk, debris.

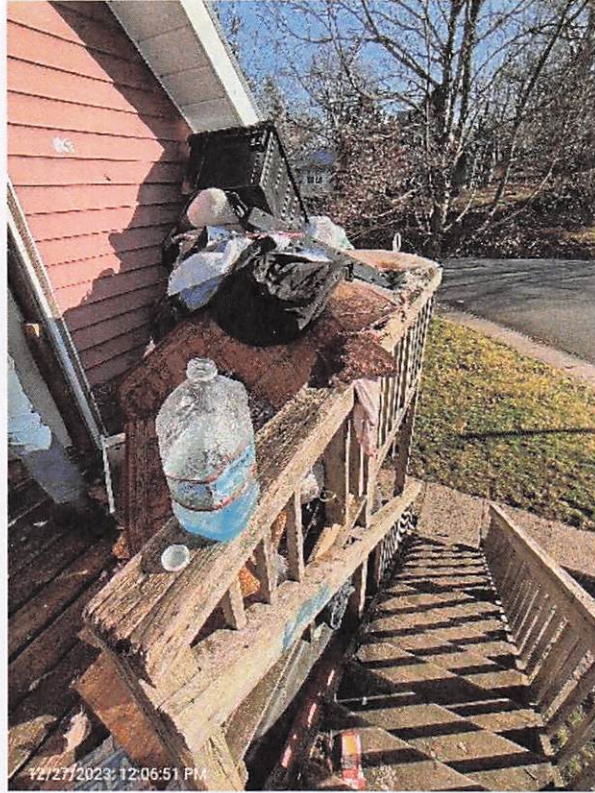


Unsanitary conditions, Apt. 3.





12/27/2023: 12:06:16 PM  
**Trash, junk, debris in kitchen, Apt. 3.**



12/27/2023: 12:06:51 PM  
**Exterior trash, junk, debris.**



**Trash, junk, debris in kitchen, Apt. 3.**





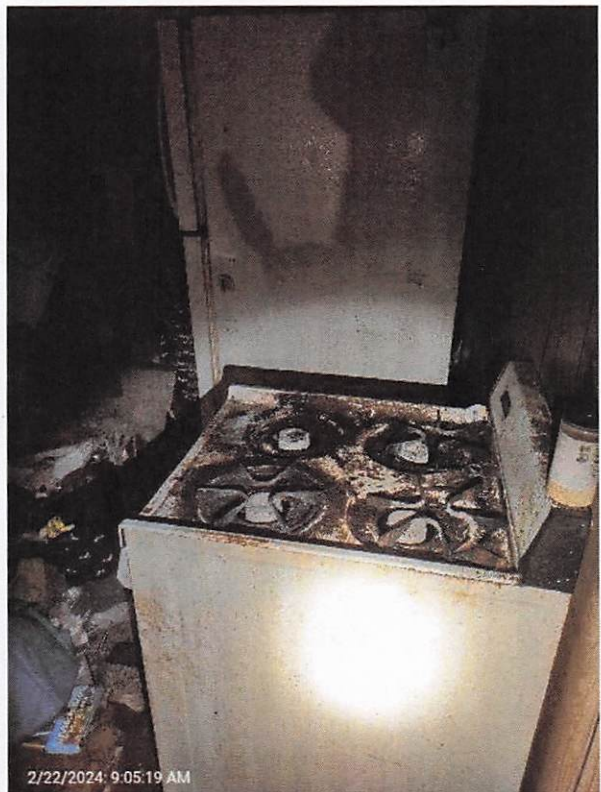
2/22/2024 9:05:02 AM

Unsanitary conditions in kitchen, Apt. 3.



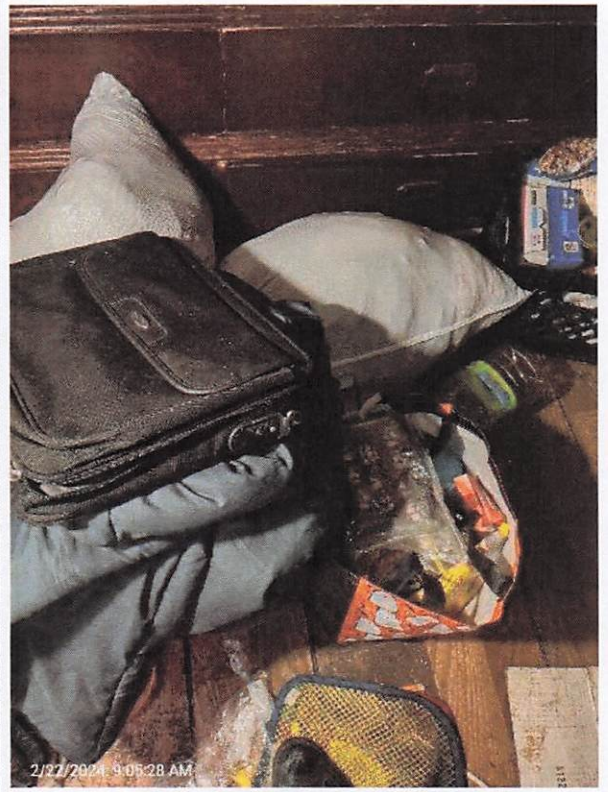
2/22/2024 9:06:10 AM

Unsanitary conditions in kitchen, Apt. 3.



2/22/2024 9:05:19 AM

Unsanitary conditions in kitchen, Apt. 3.

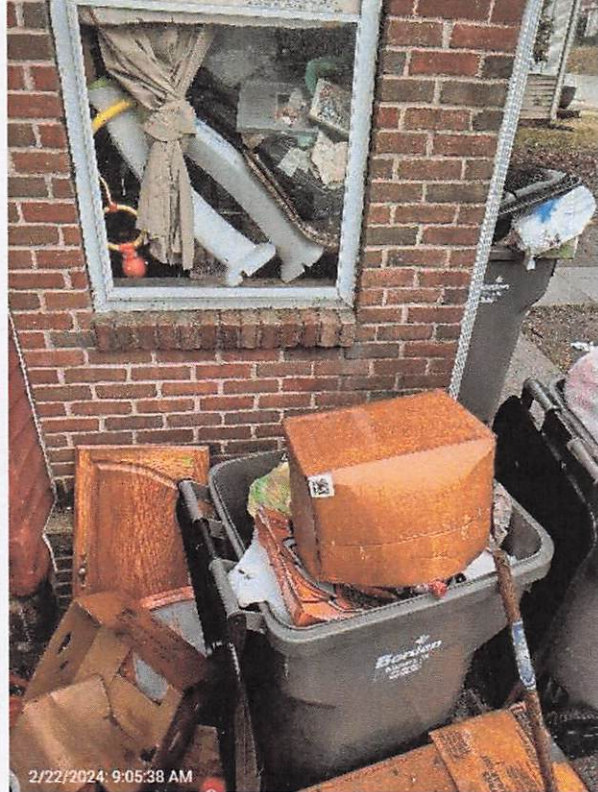


2/22/2024 9:05:28 AM

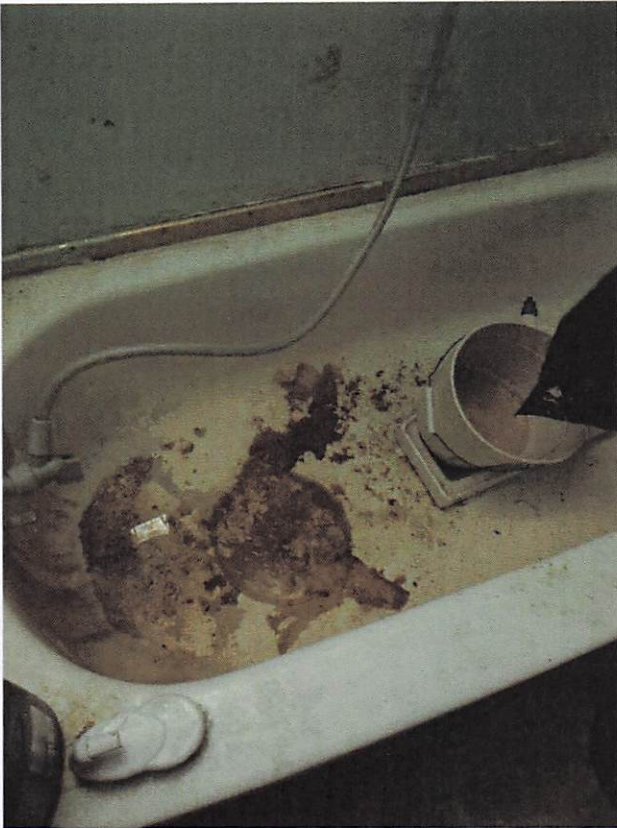
Unsanitary conditions in kitchen, Apt. 3.



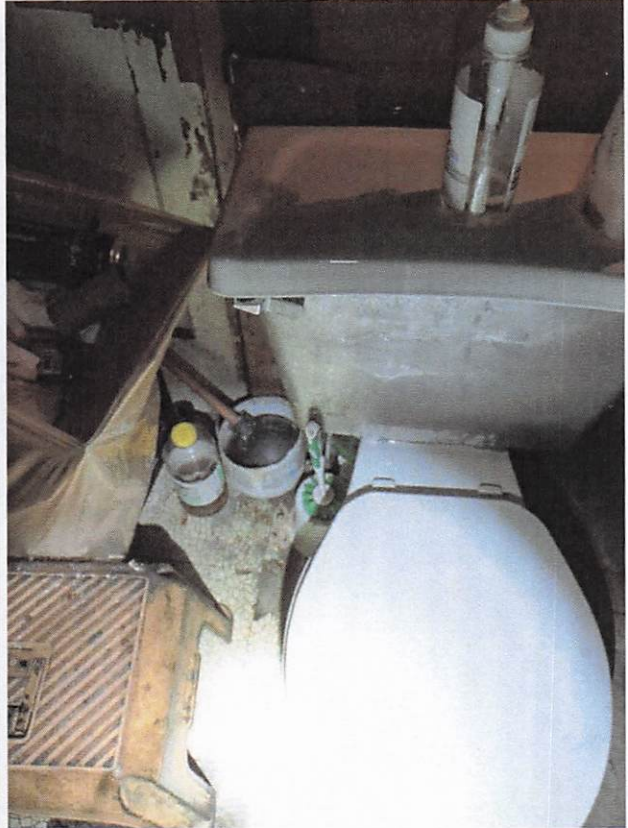
Exterior trash, junk, debris.



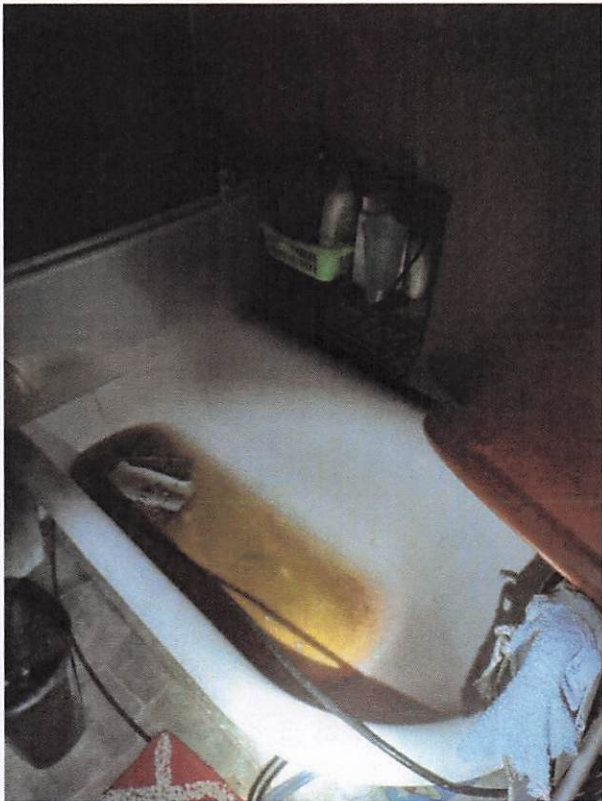
Exterior trash, junk, debris.



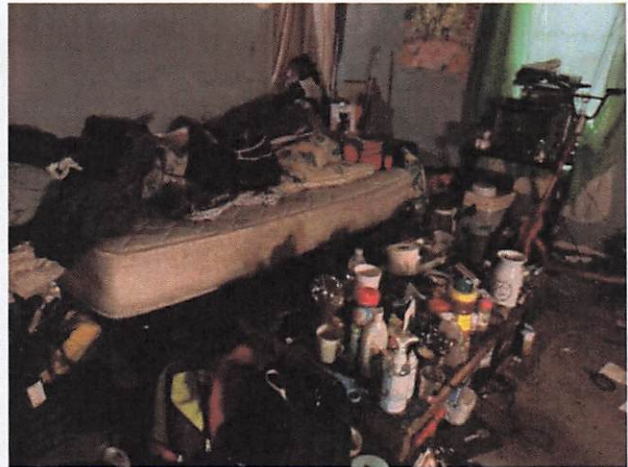
Unsanitary conditions in bathroom, Apt. 2



Unsanitary conditions in bathroom, Apt. 2



Unsanitary conditions in bathroom, Apt. 2.



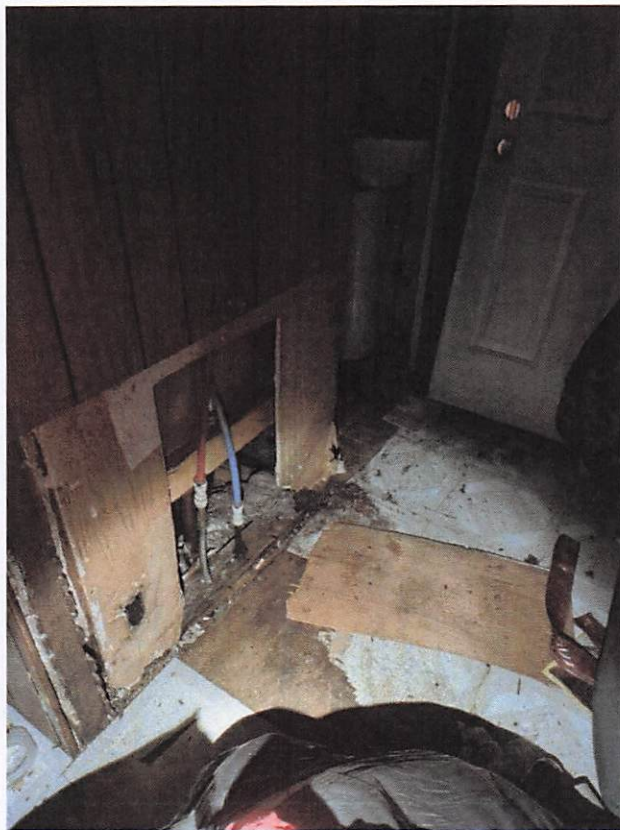
Unsanitary conditions in Apt. 2.



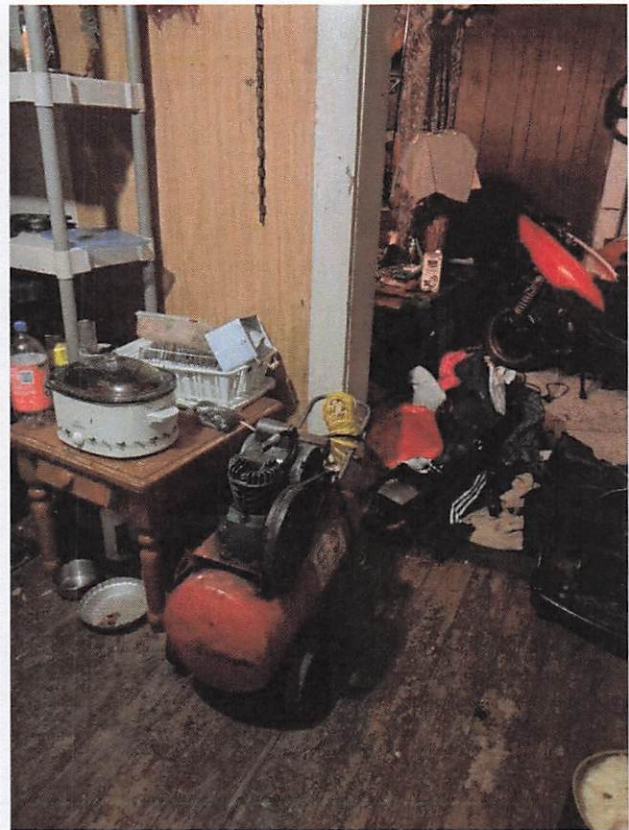
**Collapsing ceiling, Apt. 2**



**Collapsing ceiling, Apt. 2**



**Wall in disrepair, Apt. 2**



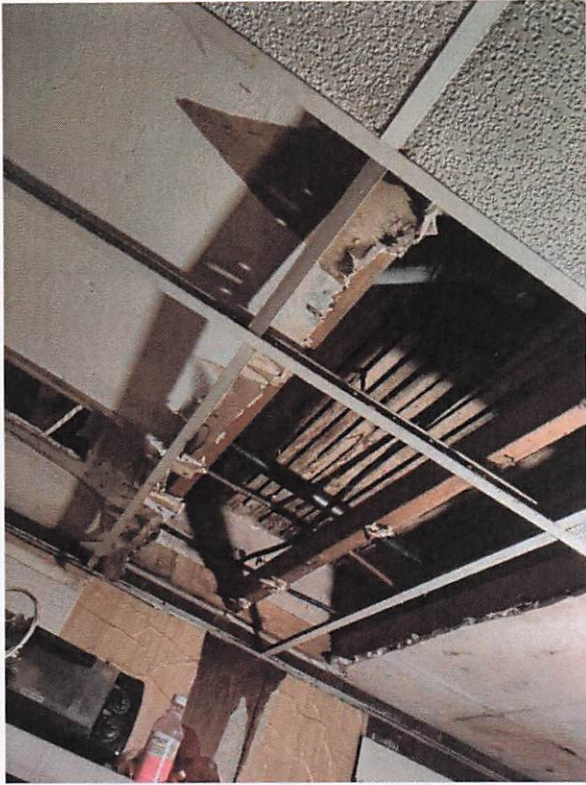
**Unsanitary conditions, Apt. 2**



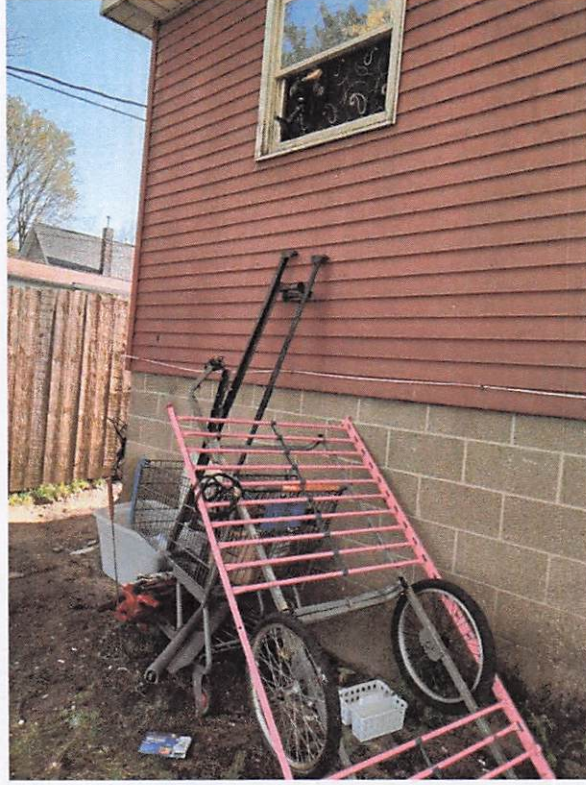
**Collapsing ceiling, Apt. 2**

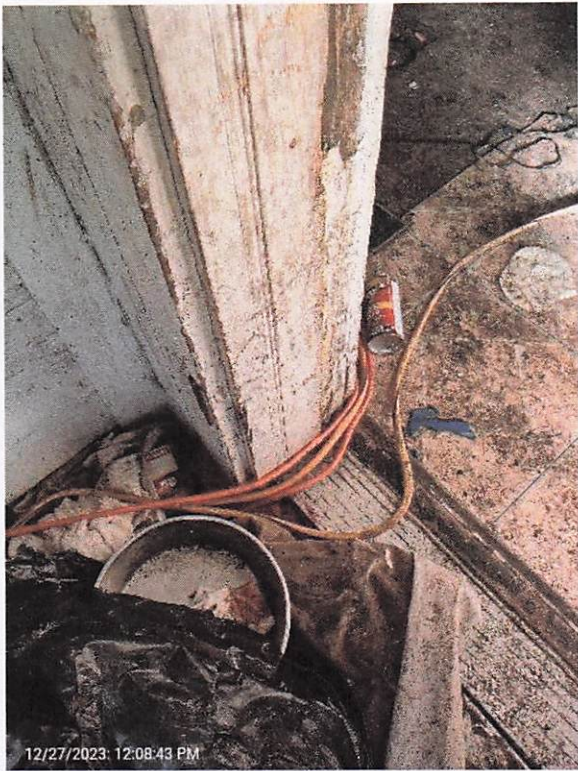


**Ceiling in disrepair, Apt. 2**



Ceiling in disrepair, Apt. 2.





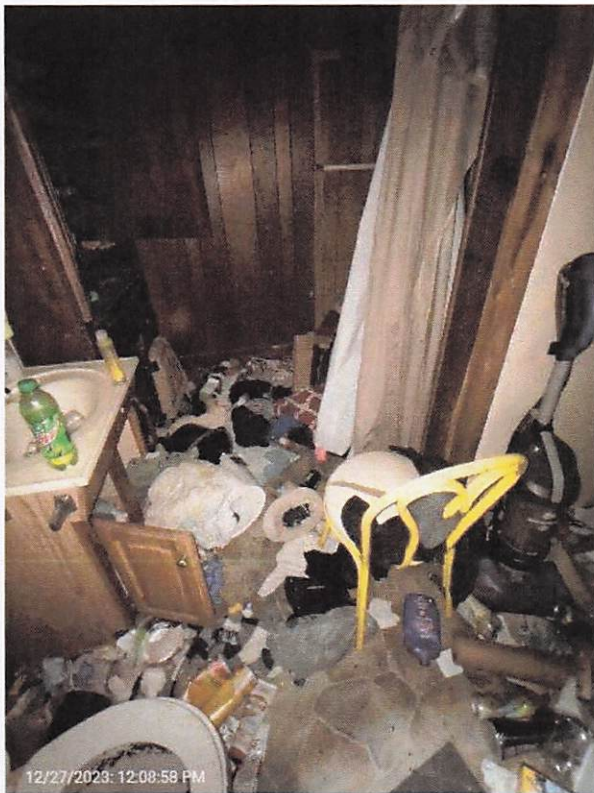
12/27/2023: 12:08:43 PM

**Unsanitary conditions, Apt. 2.**



12/27/2023: 12:08:47 PM

**Trash, junk, debris, Apt. 2.**



12/27/2023: 12:08:58 PM

**Unsanitary conditions, Apt. 2.**



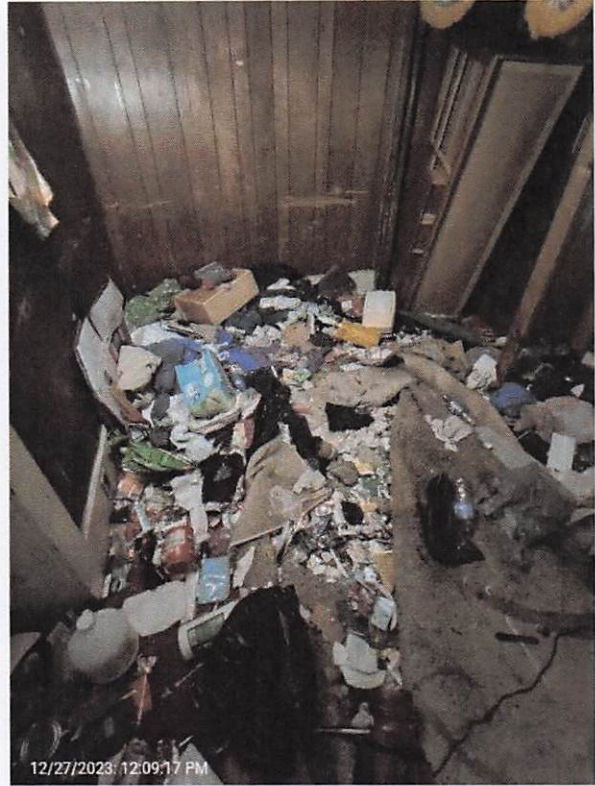
12/27/2023: 12:09:07 PM

**Unsanitary conditions in bathroom, Apt. 2.**



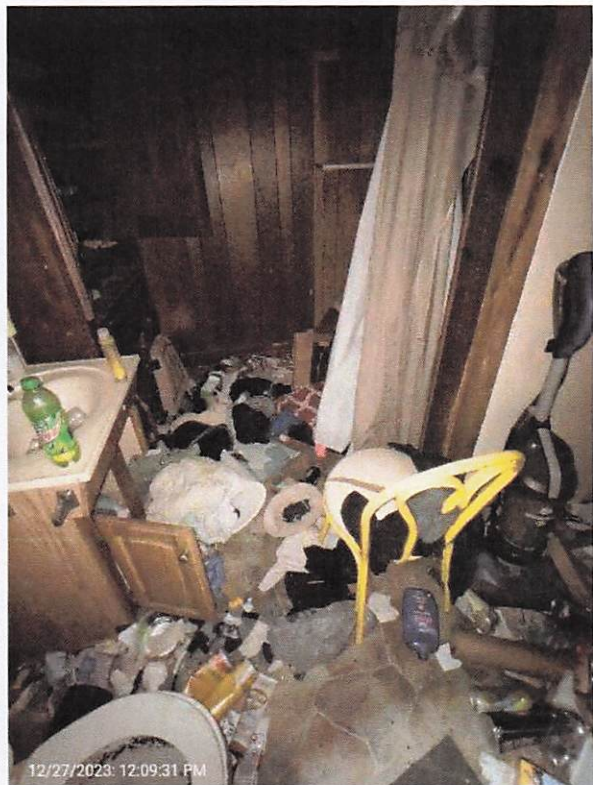
12/27/2023: 12:09:12 PM

**Ceiling in disrepair, Apt. 2.**



12/27/2023: 12:09:17 PM

**Ceiling in disrepair, Apt. 2.**



12/27/2023: 12:09:31 PM

**Trash, junk, debris in Apt. 2.**



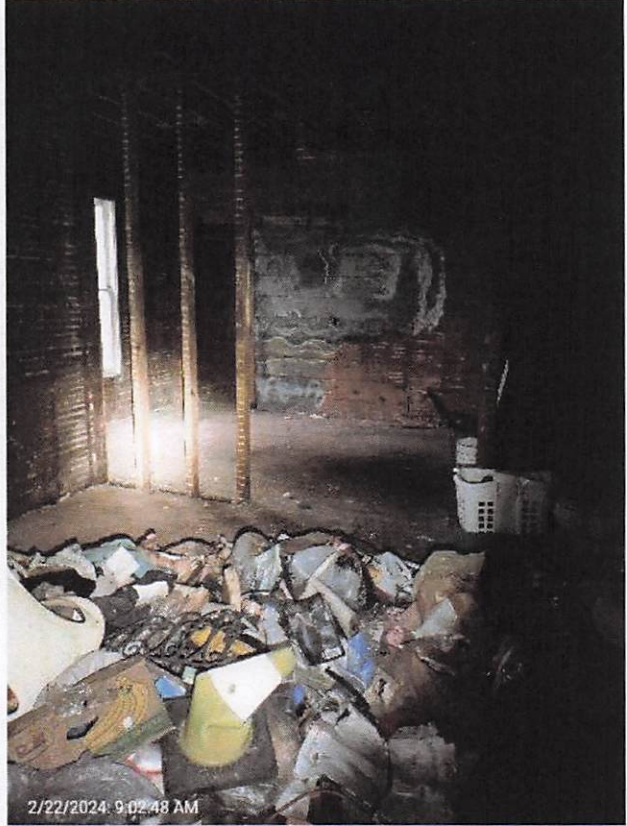
12/27/2023: 12:09:37 PM

**Trash, junk, debris in Apt. 2.**





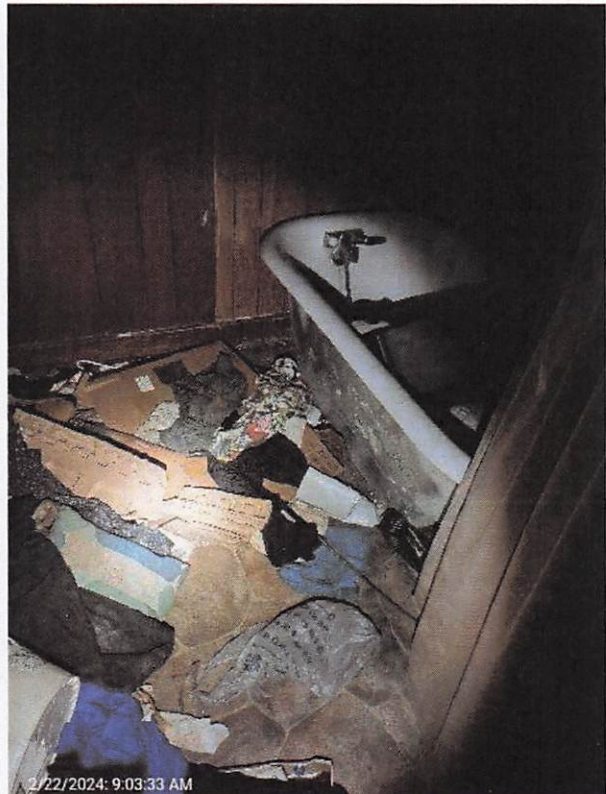
Hole in exterior wall.



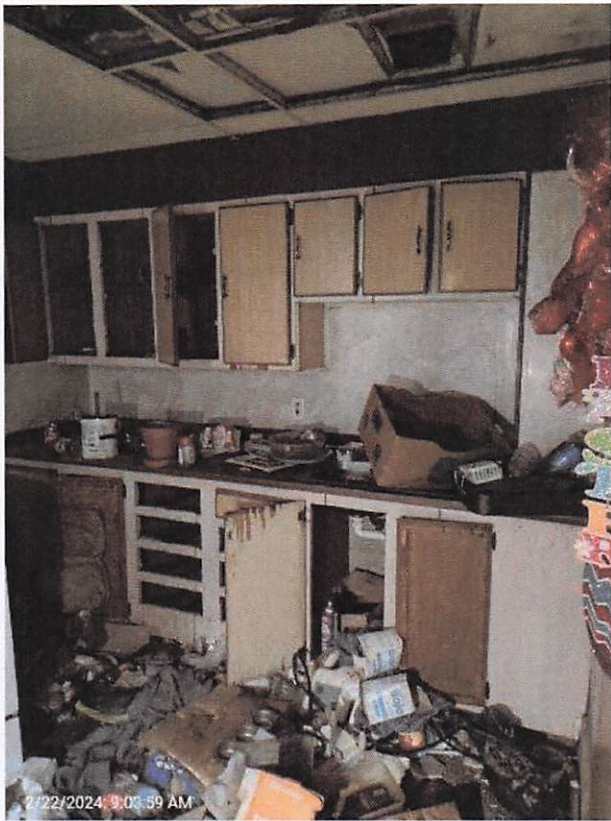
Trash, junk, debris, Unit 3.



Trash, junk debris, Apt. 2



Unsanitary conditions in bathroom, Apt. 2.



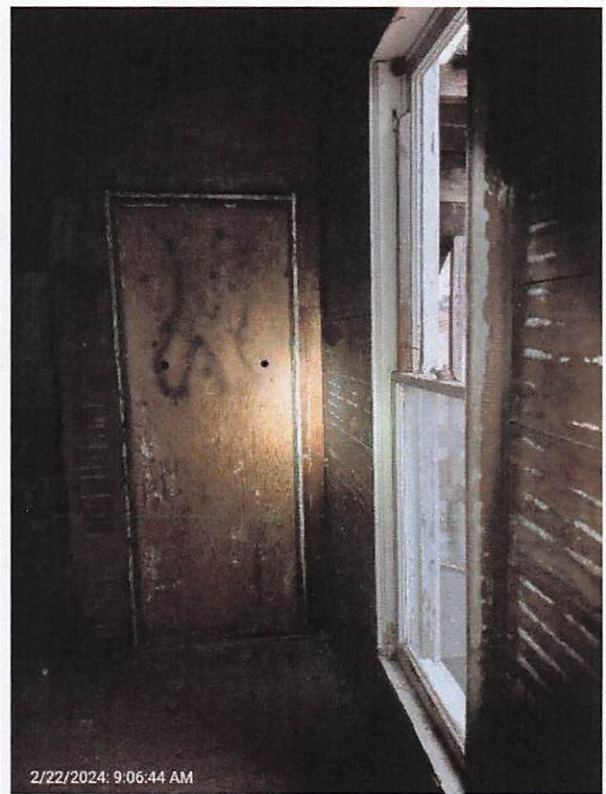
2/22/2024: 9:06:59 AM  
**Unsanitary conditions, Apt. 3.**



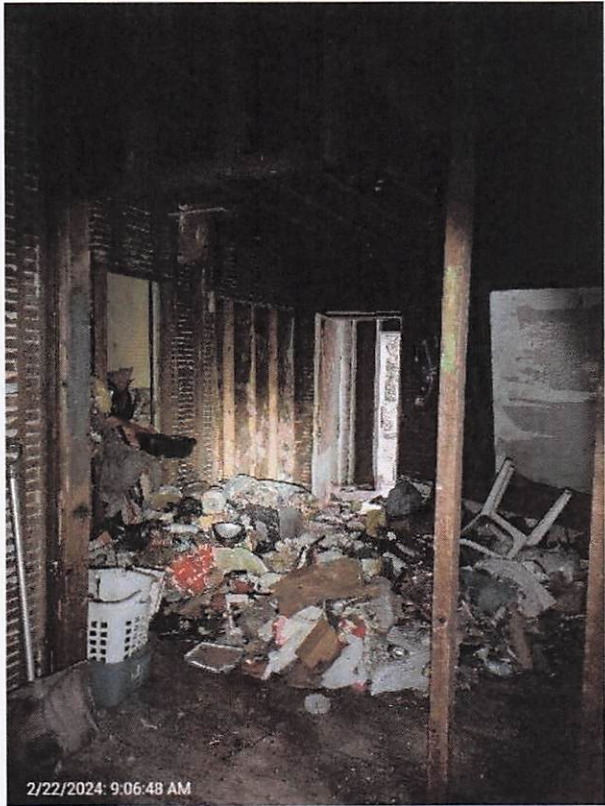
2/22/2024: 9:06:28 AM  
**Walls, ceilings in disrepair, Apt. 3**



2/22/2024: 9:06:33 AM  
**Walls, ceiling in disrepair, Apt. 3.**



2/22/2024: 9:06:44 AM  
**Walls, ceiling in disrepair, Apt. 3.**



2/22/2024 9:06:48 AM

**Walls and ceiling in disrepair, Apt. 3.**