

**MINUTES OF THE SPECIAL MEETING AND SHOW CAUSE HEARING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PAWNEE CITY, HELD ON WEDNESDAY, MAY 8, 2024, AT 7:00 P.M. AT THE CORNERSTONE BUILDING, 601 G STREET, ALL IN PAWNEE CITY, PAWNEE COUNTY, NEBRASKA.**

Notice of this meeting was given in advance thereof by posting in four prominent places, a designated method for giving notice as shown by the Affidavit of Posting on file in the office of the City Clerk. Notice of this meeting was given to the Mayor and City Council and a copy of their acknowledgment of receipt of the notice and the agenda are on file in the office of the City Clerk. The availability of the agenda was communicated in advance and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

**Present:** Mayor Charles Hatfield, Council Members Susan Eisenhauer, Donnie Fisher, Vickie Zelenka and Laura Poskochil; Betsy Samuelson, City Attorney; Foreman Spencer Cumley; Tamela Curtis, City Clerk/Treasurer and Kellie Wiers, Deputy City Clerk. **Absent:** None.

Mayor Charlie Hatfield called the meeting to order at 7:00 p.m. informing all those present of the Posters stating the Open Meeting Law Changes on the West meeting room wall accessible to the public. At this time, all those present stood to recite the Pledge of Allegiance.

Mayor Hatfield stated this is a special meeting of a show cause hearing for Ed Raper on the 522 G Street nuisance property and at this time I'll turn it over to Betsy. City Attorney Betsy Samuelson: since Ed Raper is not here I am going to go ahead and pass out the exhibits so you guys can actually pass them around but if he does show up I would like that copy back, so that he has a copy himself. Three years we have been working with Mr. Raper on his building down at 522 G. On March 14<sup>th</sup> it collapsed during a storm as most of you know the north side wall collapsed. On the 19<sup>th</sup> we sent a notice to Mr. Raper to abate the nuisance and that is located as the first Exhibit in your packet. Then we served a letter, well the letter was served on March 26<sup>th</sup>, 2024. Proof of Service is included as Exhibit #2. Mr. Raper then requested a hearing on March 29<sup>th</sup>, 2024 and that is marked as Exhibit #3. On April 25<sup>th</sup>, 2024, a letter was sent to him scheduling a hearing for May 8<sup>th</sup>, 2024 at 7:00 p.m. and that is marked as Exhibit #4. The letter was served on Mr. Raper on April 25<sup>th</sup>, 2024 and Proof of Service is included as Exhibit #5. This process was all done in accordance with the Nuisance Ordinances which have been included in the Packet as Exhibit #6 and I would like to offer Exhibits #1-6.

Betsy-Then for the following exhibits, I would like to have Foreman Cumley and City Clerk Curtis sworn in to testify, do you both swear to tell the truth, the whole truth and nothing but the truth, so help your God? Curtis: I do. Cumley: I do. Samuelson: Ms. Curtis can you state your name, address and position with the City? Curtis: I am Tamela Curtis. I live at 843 3<sup>rd</sup> Street and I am the City Clerk/Treasurer of Pawnee City. Samuelson: As City Clerk, do you maintain meeting minutes for City Council meetings? Curtis: Yes I do. Samuelson: Do you recognize this document that is marked as Exhibit #7 in the Packet? Curtis: Yes. Samuelson: Now are these the meeting minutes from May 22<sup>nd</sup>, 2017. Curtis: Yes they are. Samuelson: Are they a true and accurate depiction of those meeting minutes? Curtis: Yes they are. Samuelson: Can you state the topic of discussion that is at the beginning of page 2 of the meeting minutes? Curtis: City Attorney Joe Stehlik and Ed Raper, Show Cause Hearing on 522 G Street Nuisance Property.

Samuelson: Is that show cause hearing for the same property that we are discussing this evening?  
Curtis: Yes it is. Samuelson: I would submit Exhibit #7 into Evidence. As part of your duties as City Clerk, do you receive complaints on nuisance properties within the City? Curtis: Yes.  
Samuelson: Have you received any written complaints for the Raper Property? Curtis: Yes.  
Samuelson: I'd like to show what's marked as Exhibit #8 in the packet. Do you recognize this?  
Curtis: Yes. Samuelson: And what is this document? Curtis: It's a complaint form for nuisance properties that Heidi Kohake filled out because she owns the building next to Mr. Raper's.  
Samuelson: And is that a true and accurate depiction of the complaint form that you received on 3/28/2024? Curtis: Yes. Samuelson: I would submit that as Exhibit #8 into Evidence.

Samuelson: Foreman Cumley can you state your name, address and position with the City?  
Cumley: Um Spencer Cumley, I work, uh I live at 836 L Street in Pawnee City, Nebraska and I am the City Foreman for the City of Pawnee City. Samuelson: As Foreman, are you asked from time to time to take pictures of nuisance properties? Cumley: Yes. Samuelson: Do you recognize the pictures here that we have included as Exhibit #9? Cumley: Yes I do. Samuelson: Did you take these pictures? Cumley: Yes I did take these pictures. Samuelson: And on what day did you take them? Cumley: On March 14<sup>th</sup>, 2024, the day we were called about the building falling down. Samuelson: Is it a true and accurate depiction of the property on that date? Cumley: Yes.  
Samuelson: Do you recognize these pictures? Cumley: Yes I do. Samuelson: Did you take those pictures? Cumley: I did take these. Samuelson: And when did you take them? Cumley: I took these ones on April 8<sup>th</sup>, just about a month after the initial collapse. Samuelson: And is that of the same property? Cumley: Yes it is the same property. Samuelson: And is that a true and accurate depiction of the property on that date? Cumley: Yes it is. Samuelson: Do you recognize these photos? Cumley: Yes, I do recognize these ones. Samuelson: Did you take those pictures? Cumley: Yep I took those pictures this morning on, uh, well this morning, the 8<sup>th</sup>, May 8<sup>th</sup>. Samuelson: And are they a true and accurate depiction of the current state of the building? Cumley: Yes they are. Samuelson: I would offer those as Exhibits #9, 10 & 11 then.

That would be the close of the evidence that I have for the Council. At this time traditionally, Mr. Raper would have the ability to present any evidence that he has contrary to what was provided against his nuisance or anything that he feels that the Council should consider and whether or not they abate the nuisance. Since he is not here, I think we can open the floor to any comments from the public or any comments that the public would have. So, I will turn the meeting over to you, Mr. Mayor. Mayor Hatfield: So be it. Does anyone here in the gally like to make a statement? Derek Aldridge: May I approach? Hatfield: You bet, sorry we don't have a pulpit, we just got moved into this building, so. Aldridge: It's a beautiful building. Hatfield: Thank you. Aldridge: Thank you for allowing me to attend and to speak. My name is Derek Aldridge and I am an attorney. My address is 233 South 13<sup>th</sup> Street, Suite 1400, Lincoln, Nebraska. I am here representing Union Bank & Trust. Union Bank is a proud partner of Pawnee City, glad to be in the community. Serving the community. Um as you know they have a facility, a bank branch right over here. Right next door to the nuisance property that we are talking about. Um, the Bank has serious concerns about the condition of that property. Obviously as you can tell, there is a significant height difference between the bank's property and the property of this nuisance property and as we can see, we can see out here from the wall, that wall is already coming down, that roof part coming down, serious concerns that it is going to happen on the other side. And actually, that the building will fall over and land on the bank property. Probably

potentially causing significant damage to the bank property but also probably more importantly the potential injury to bank employees, to customers of the bank and then anybody else in the community who may just be out in the public ways walking along. The Bank understands, and it takes, it takes very seriously the notion of tearing down old buildings, potentially buildings that have historic significance. Um, and obviously in a situation like this, where many people would consider this to be a slice of Americana, right here on the main, on the, on the square. Okay, because when buildings get torn down in that situation, there's a fear that they may not come back. But in this particular situation, with the condition of this property and what appears to be the attitude of the owner not willing to take the condition of the property seriously, the bank feels it is in the best interests of the community and would really ask the Council to order that it be demolished. Thank you for your time. Hatfield: Thank you. Heidi Kohake: Well said! Council Member Eisenhauer: Did you want to concur with that? Kohake: Yes. City Attorney Samuelson: I did also want to call attention to those meeting minutes that were submitted into Evidence, as it does state in there that he was going to have that eastern wall repaired and the roof repaired by December 1 of 2017 and he obviously didn't get that accomplished and it was in there regarding a structural engineering report that had been taken care of shortly before this meeting, where the structural engineer stated that potentially the building needed to come down and would not abate. Well and even though outdated, I still think that Structural Engineering Report is accurate, the integrity of the building has only further deteriorated over the last seven years.

Council Member Poskochil: I don't think that there's really any disagreement that the property is unsafe. Uh, my only question is that I see in his letter requesting a hearing that he would not be, his first available date to attend would not be until August 26<sup>th</sup>, so just wanted to verify that he was provided adequate notice of this hearing. Um, that he knew. Clerk Curtis: It should be in the evidence file as an exhibit that he was served notice. Poskochil: I just wanted it on the record that we had followed all procedures. Did he make any response as to his inability to be here tonight or request to schedule at a later date or anything like that? Samuelson: He did not make any request to handle this at a later date or even make us aware of whether or not he would be able to attend tonight. If you look at his letter he said he wouldn't be able to attend any City Council meetings, which is part of why we avoided any Monday night, since he couldn't meet until August, On those Monday nights, we can't, I don't think, as a City, sit on this until August. Council Member Fisher: So what is our next recourse then? Samuelson: Essentially, at this point all you need to determine is whether or not you agree that the Board of Health is correct in finding the property is a nuisance and asking the owner to abate the property. Eisenhauer: Was there a company that had submitted a bid to demolish the structure? Clerk Curtis: Yes. Eisenhauer: How much was that for? Curtis: \$188,411.00. And he did come back and say that if we would allow him to take the bricks and concrete down to the sewer plant site.. he said, considering the new haul site, it would most likely reduce the bid \$10,000 to \$15,000. Eisenhauer: But then that would just be our responsibility to get rid of them. Curtis: Yes, we would still have to get rid of them. Eisenhauer: And then, according to, I've read through some of the ordinances today, and correct me if I'm wrong, but if we have it demolished, we will have to pay the \$188,411 if that's the only bid we get or the winning bid. So far it's the only one who wanted to submit a bid. So, our only recourse would be to file liens or assessments against the property and potentially go against Ed in civil court? Samuelson: We do have to give him, following this hearing, notice that he needs to fix it at once and then a reasonable amount of time to fix it before we enter the property. Eisenhauer: What do you consider a reasonable amount of

time? Samuelson: It says in the nuisance, at once and promptly comply so they don't think that there is a set amount of time but I don't think it has to be a month or lingering. Eisenhauer: So, it would have to be 15 days from today's date? Samuelson: no, from his notice. Eisenhauer: From his notification, so he would have to be served. Samuelson: correct and we have had some problems serving him. If you go back through the dates we had a couple weeks there where we couldn't serve him and we had one meeting we had to cancel because they (Sheriff's dept.) were unable to serve him. Fortunately, the last one we were able to get him served the same business day. So, it kind of depends on how available he may be. Fisher: It would be in his best interest to be very available. If not, it's going to fall all on him. Eisenhauer: It's going to fall on the City first and then we're going to have to be able to collect it from him. Fisher: Yes, I know, so that is what I'm saying. We cannot stretch this out. I mean it's, the weather, the rain, the wind. I mean we can't delay this. It needs to go soon. Council Member Vickie Zelenka: He can't afford to have his building fall down. With the last storm we had, if it fell one way or the other, we'd have a lot worse situation. Eisenhauer: I think, I read the minutes of the 2017 meeting and in those minutes, he specifically states that he was going to have those walls torn down and rebuilt before December of that year and the only way that he wouldn't have it done is if he was dead. Well, he's still walking around and it's still not done and it's in worse condition now than it was seven years ago, so I think we have to take immediate action. Even if it means the City has to fork over \$188,411 and potentially not be able to collect all of it back. Mayor Charlie Hatfield: Do you want to put that in a form of a motion? Eisenhauer: I don't know how to do that. Um, let's see, um. So, the first thing we have to do is let him know that we're going to give him so many days to fix it. Hatfield: So how many days? Eisenhauer: I'd say 15 days from the day that he's served. So, I would make a motion that the City serve Ed Raper notice that he has 15 days from the date that he is served to repair or demolish the building at 522 G Street, to the satisfaction of the Health Department and the City of Pawnee City. Zelenka: I second that. Eisenhauer: Do we have to say what we will do if he does not? Or can we say what we will do if he does not? Samuelson: I believe all you had to say was that you will if it is not. Eisenhauer: It definitely does. Samuelson: It needs to be abated. Eisenhauer: So, at this point in time, that's all we have to do? Samuelson: Roll call. Eisenhauer: Yep, roll call. Curtis: Roll Call: Fisher, Aye; Eisenhauer, Aye; Zelenka, Aye and Poskochil, Aye, whereupon motion carried.

Curtis: Can I say about the Insurance, what Fred from LARM had sent to us through email, just about putting the fence, ya know, fencing that in out front. He would like to see the parking spaces, um barricading that off with caution tape. Just so nobody walks there. Eisenhauer: Even putting a sign on it that says do not cross so nobody goes through this area. Curtis: Because the City only can control the sidewalks, well the public sidewalks and the street and by barricading that off then we're drawing more attention than just the cones. Eisenhauer: Quite honestly the cones don't prevent anybody from walking across there. Hatfield: I think that's what they did here. We did that here when this building (Cornerstone) went. Curtis: Yes, just in front of it. Eisenhauer: In front of the building, yes. There's probably going to be several parking spots that are going to, but nobody wants to park there anyway because everybody knows that that building is not safe, but I think it's in our best interest to make sure that it's completely blocked off. Zelenka: Does this insurance company, I mean does this demolition group that comes in, you said is from Lincoln? Curtis: Yes. Eisenhauer: What's the name of it, Tammy? Curtis/Hatfield: Pershing. Eisenhauer: Pershing Demolition? Curtis: Alpine Construction/Pershing. Deputy Clerk Kellie Wiers: Todd Pershing. Zelenka: They will, or they have all of the necessary insurances

and permits to do that. Hatfield: I'm sure they do. Eisenhauer: That would be a requirement. Cumley: He demos all of the buildings in Lincoln. Curtis: This was just an estimate. We would have to actually put it out for bid. Hatfield: I think he also demo'd over in Auburn and Nebraska City. Zelenka: Okay. Curtis: On his emails, it says Pershing Excavating and Demolition, so this is what he actually does. Poskochil: Did he actually say if they could save any historical portions of the building? Eisenhauer: It's not ours, so. Hatfield: It's not ours, it's Ed's building. Poskochil: If the City had to pay to take it down wouldn't we have any say cuz we would have a lean on it at that point, so how does that work? Curtis: It still doesn't mean anything as it's still not ours. Just like we tore down Horner's house, 12 plus years ago and it's still not the City's property. We assessed all the charges against it but it's still not ours. Kellie and I did talk to the State Historic Preservation Office and it is on the register because it's part of the business district downtown and um, let's see she had said as long as you're not using Federal dollars you can demo it. You can use Federal dollars; there's just extra steps and she was talking about if the City or that other person owned it. She also said there were incentive programs out there for tax credits if they were to rehab it and if the bricks are crumbling, it doesn't necessarily have to be put back to brick, you can use other materials. She was very nice to share that information. Eisenhauer: She hadn't seen any pictures of it either? Curtis: No, we told her the whole back end of it was gone and so then she said, well if they would want to.....it wouldn't have to be the same size, if he wanted to like shore it up halfway through. Ya know, he could cut the building in half or whatever, but anyway. Of course, a person from the State Preservation Office does not like to see any old buildings destroyed. Um and she got online and I gave her the address and she said, okay you said the back of it was gone um and I can see the front and she wanted to make sure she was on the right property so she described what it looked like with the arch on the top, so she knew she was looking at the right building. That is how she confirmed that it was part of the downtown historic area. Poskochil: So, I'm sorry, you said the State Historic Office said that even if we were to do it, that we wouldn't necessarily have to demo the whole thing? Curtis: We would have to own it. Whoever the owner of the property is, meaning um, if the City did own it, there are incentive programs out there if we wanted to rehab it or whatever. She was talking about tax credits and I'm not sure how that really works for the City. Fisher: Would it be beneficial to see if he would sign it over? Would it help us in our demolition costs? Eisenhauer: Good luck with that. Fisher: And I don't want to delay anything a minute longer but I'm just... Samuelson: But you wouldn't want to have it signed over and then wait to find out if you have a grant because if it falls in that mean time then it is a liability completely on the City. Fisher: Yes, then it would be on us. Eisenhauer: I just think it needs to come down. Fisher: It does, as quickly as possible. Curtis: There are other grant, deconstruction grant programs, but I mean you have to get special permission....cuz it's stating in there about the Nebraska State Historic Presentation Office, you have to make sure it's not. Samuelson: Would any of our local groups be able to assign grants to the City? Fisher: Anything would help. Eisenhauer: Especially if the City could pay them back you know, under part of this year's budget, part of next year's budget. Or, so you know, so it's not all at once. Or even a couple of years from now. Poskochil: Where would this come from in the City Budget? Curtis: Well, that would be a really good question. Um, I think unfortunately since we don't have a really big general budget and well we have a big general budget, but we don't have a lot general money and we have a street bond payment coming up in July. Um so we can't deplete our total general funds to tear that down, so we would have to borrow money from the Utility side. Um, and unfortunately that's our business side and we get those funds from our customers so that means everybody is paying to tear it down. There's no,

well it's kind of a no win situation no matter what. Um, I don't know if any Council Members, the Mayor, if anybody wants to go to organizations and ask them if they would like to donate money towards tearing this building down? Zelenka: Usually they come to us, asking for donations and looking for money. Curtis: You know they did help renovate this building (Cornerstone). Quite a few of the organizations gave \$10,000 or even a little more. Um, because as you can remember, the bricks were falling off of the front of this building, too. Eisenhower: But we didn't wait seven years to fix it. Curtis: No, no we did not. Hatfield: And, we had someone that would work with us, even though he wasn't the easiest to work with. At least they worked with us on getting the building switched over. Curtis: We would definitely have to have a conversation with our Auditor. Eisenhower: On how we would finagle the funding. Well, I would be willing to go down to bare bones on the park budget, but it's one of the smallest budgets we have, but I would still be willing to do that, so no improvements or anything until it is paid for. Zelenka: Has the water level come up? Cumley: I mean, from where it was last summer, but it's.....I don't think it's going to get any better. Hatfield: Not once irrigating starts. Fisher: We might have a good window now, but I bet it goes back down. Hatfield: Have you heard anything on them test well drilling? Cumley: Yep, 45 within 45 days. That's what they told me. But that doesn't mean we have to money to put in a new well either as that's just a test well. Hatfield: That's right. Fisher: We might have to milk that one for another year. Curtis: JEO is still working on our Water Preliminary Engineering Report for water. Fisher: We've got a couple streets that we're going to work on, but we can kind of hold off because we've got some of that money left that we were going to match for grants so there's some money there if we need to do something. We've got a little bit of wiggle there. Because to me this is more important. I mean I know some people might not like the potholes out in front of their house, but it's better then having this building falling on someone or something. So, I mean we're not building it on a water park or something unnecessary compared to this. Curtis: Um ya, so you have to remember just because we have money budgeted, doesn't necessarily mean we were going to spend it all, so that doesn't necessarily mean we have it sitting in our general funds. It gradually comes in and we don't usually spend \$180,000 at once so you know unless we can get some good donations or whatever um we're probably still going to have to look at borrowing money from the Utility side. Zelenka: He will still own the lot right? Curtis: Yes. Fisher: Then we'll have a heck of a lien against it and it will probably never sell. Well, is there a way we can put a lien on other stuff he owns? Eisenhower: That's a Betsy question. Hatfield: That would probably be a thing that we would have to go through court. Fisher: It's just a thought because that's a lot of money. Samuelson: With the nuisance ordinance it's only against the real estate. Eisenhower: But in a Civil Action, we could potentially go after other assets. Samuelson: Correct and with a sizable amount like that I would think that a Collections Agency could probably take it on instead of... Eisenhower: So, like garnishments from Social Security? Samuelson: You can't really garnish Social Security. Zelenka: I was going to say with Social Security, there's a lot of things that can't touch that. Curtis: Well, anything else? Eisenhower: So, if we adjourn now, what's the next step? We wait for Ed to get back to us or? Curtis: We get him served. Hatfield: Get him served and then he's got his 15 days. Curtis: yes 15 days from the date he's served. Eisenhower: Do we want to set another meeting date, on a date that's not a Special meeting date or do we want to wait until he's served and has an opportunity to? Hatfield: I would say wait until he's served. Samuelson: You see at that point; his next course of action would be to appeal to the County Court. He doesn't come back to the City Council to argue it. Eisenhower: Okay, so it goes from here and if he doesn't like what we say, he goes to court. Fisher: So, he'd have the 15 days and

then he's got his, whatever he does. So, in like timeframe, how long do you think that will be? Samuelson: If he goes in on those 15 days and starts making a ton of headway on his own then the way the Ordinance is written I don't think we can go in and do anything but he'd have to start complying with it. As far as getting him served, I don't know. We've had times when it's taken up to two weeks and sometimes it's taken 12 hours. Poskochil: What about the timeframe for him to appeal? Samuelson: It isn't written that we have to stop and wait for him to appeal. Is there like a set time or like a 30-day window or like the amount we set and the 15 days that we set and he has to go within that time or? Samuelson: He can appeal, I think even after, I'd have to go back and check for sure, but I think he can appeal even after the fact because then he can appeal the costs and whether or not it was reasonable. Whether or not the City took the best course of action. Fisher: What I'm afraid of is that this is just going to just creep out. Eisenhower: Delay, delay, delay. Fisher: Ya, cuz you know he's filled like two wagons. Or dumped one wagon and filled another one and that's it and I'm just afraid it's just going to keep creeping out. Cumley: He's never really taken anything off of the building. Fisher: No, he's picked up some bricks and put them in a little wagon and one trip went to the tree dump. In what two months? Eisenhower: I saw him coming back from the tree dump just this last week. Fisher: So, he might have two wagons dumped. Hatfield: I think there's two piles down there now. Fisher: So, I know, but what I'm afraid of and I know we probably can't do anything to speed it up, but he's just going to play the system just long enough to keep creeping it out and I just hate that. I wish we could just do it. Samuelson: If we've given him reasonable time to comply, then we can abate the nuisance. So, I don't see any way that he can drag it out from here. The court action is staying everything and up until this point he hasn't even gotten an attorney so, we'll see if he takes it that seriously. Eisenhower: Well, we're pretty serious and I think all of us are in agreement that it needs to come down.

Council Member Eisenhower moved to adjourn the meeting. Cumley: Can we start the bidding or can we put it out for bids right away? Like for demo bids? Fisher: Ya, I think we should. Hatfield: Do we have to, or can we do that right away or do we have to wait the 15 days? Samuelson: I think even getting bids is a problem. Fisher: Yes, it would be nice to have our ducks in a row. Cumley: But if they want on that property to like measure the building? Samuelson: I think you need to wait the 15 days to be on the property. Cumley: That Pershing guy did come down and measure the building. Curtis: Okay, so Susan made a motion to adjourn. Who seconded it? Council Member Zelenka seconded the motion. Roll Call vote: Poskochil: Aye; Fisher, Aye; Eisenhower, Aye and Zelenka, Aye, whereupon motion carried and meeting adjourned at 7:35 p.m..

Attest: Tamela S. Curtis, City Clerk

Charlie Hatfield, Mayor