

**At 8:50 a.m. Ward Dailey** reviewed his report (attached)

Ward confirmed that the property owner did not have an insurance policy on the Vansant structure that burned down October 2017. It is deemed an unsafe structure with a frame and couple walls remaining. He recommends to the Board of Legislators to clean up and remediate the site pursuant to Local Law No. 2-2007. He asks the Board to do one of three things: 1-order the owner to secure the structure; 2-order homeowner to appear in court and be ordered to clean up the property; 3-the County clean up and remediate the site and impose the charges onto the property tax bill. Ward does not deem this property is an emergency.

Chairman Dolhof inquired the legality for the County to recover remediation expense. Ward stated that in accordance with the Local Law, if the expense is under \$20,000 the County may use County equipment and personnel for the clean-up and remediation and impose said expense on the property tax bill. He stated that Charles Ort is the supposed property owner. Ward would obtain a copy of the deed today.

Atty. McNichol recommends informing the property owner for an opportunity to remediate the site before the County would commence action. Legislator King suggests the County take ownership of the property if the County cleans it up. Atty. McNichol affirmed than illegal, but the County would abide by the delinquent property tax laws and procedures.

The Board was apprised by written notice from Code Officer Don Mallette in regard to the Cole Boliver property in Lowville that burned in June 2018 and deemed an unsafe structure. It is unconfirmed whether the property owner has insurance coverage. Ryan Piche stated that the law allows for the County to take action to remediate an unsafe property and hold the property owner accountable by having any insurance recovery held in escrow. Ward may direct a property owner to appear before the Board of Legislators, after which given 30 days to remediate the property, if not, then the County may remediate.

Ryan Piche recommends that all three property owners be requested to appear before the Board on the same date. Ward needs to confirm the owners are provided due process pursuant to Local Law No. 2-2007.

Legislator King made a motion to propose that property owners Charles Ort, Cole Boliver and Linda and Francis Peters be noticed to appear before the Board of Legislators on 11/6/2018. Code Officers have deemed the respective structures unsafe and/or dangerous or condemned the property. The motion was seconded by Legislator Burns and carried.

Discussion ensued about the McKenna property. The County has long since condemned the property. Atty. McNichol will search for the property deeds to determine the names of the various owners. This property unusually has various owners. Rose McKenna had a fence erected on portions of the perimeter, but has otherwise done nothing to secure or remediate the structure.

Chairman Dolhof warned of potential environmental issues inquiring whether a request for EPA involvement may be prudent. Atty. McNichol stated that if the taxes have not been paid, the County may be able to obtain temporary access to conduct an environmental survey. If environmental issues are documented, there may be EPA resources to assist with remediation.

Legislator King cited Town Law that governs unsafe properties confused as to when Town or County Law prevails., Ryan Piche responded that as a condition of the Town passing the property issue onto the County, the County would require enforcement pursuant to County Law. He reported initiating a compilation of the various and varied municipal laws that would be consolidated into a synchronized law for compliance by all Towns and Villages that have opted to the County for uniform code enforcement.

Legislator Burns inquired about the junkyard license renewal process. Ward stated that Code Enforcement officers conduct inspections and report to the Review Board for their approval. Ward would provide Legislator Burns with a list of all licensed junkyards.

As informational only, Ward then posed the Local Law that mandates wind farm permits, but not necessarily from the County. Article X regulations merely require a permit that may be obtained from any jurisdiction. Some developers opt for a Public Service Commission permit. Predictions indicate many more windmill development projects for which the County could demand a local permit and collect that revenue. Ward would require special inspectors that are required for each project to sign off on every construction phase. The respective engineer ultimately certifies that the wind turbines are operational.

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Legislative Courts and Law Committee  
September 6<sup>th</sup> 2018

Personnel

No change in personnel

Munis

Audit

Budget is on track

State Mandates

No new mandates

Department Statistics

Building permits to date 508

Annual junkyard inspections to date 18

Junkyard license renewal 0

State mandated inspections of businesses, multi dwellings and places of assembly to date 130

Report

**Unsafe structure -- Roxy Vasant structure Fire, Marshey Road, Town of Diana**

On December 14<sup>th</sup> 2017, I brought before this committee a complaint that involved an October 14, 2017 fire which destroyed a manufactured home at 7864 Marshey Road, Town of Diana. The owner, Roxy M. Vasant died in that fire. It was reported that immediate family members are minors and the husband is in prison,

It was reported to the committee that a local residence submitted a written complaint voicing their concern that the remnants of structure will be left as blight on the surrounding properties.

That letter requested that the Town of Diana demolish the structure and remediate the site. The Town of Diana does not have an unsafe structures law, as such, the County of Lewis retains responsibility via the Counties unsafe structures law.

The Committee requested that it be determined if insurance by the property owner was available to remedy the site. On August 6<sup>th</sup>, 2018 I received an Email from Emergency Management director Robert McKenzie indicating that he has no information on an insurance company.

The remnants of this structure remain blight on the surrounding parcels and needs to be removed under the Counties Unsafe Structure Law

Lewis County Local Law No.2 of 2007 is the local law providing for the repair or removal of unsafe equipment and collapsed structures. This law states that; "the Board of Legislators finds unsafe equipment and collapsed structures pose a threat to life and property in the County of Lewis." That Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general Deterioration.

That Vacant building that are not secured at doorways and windows also serve as an attractive nuisance for Youth who may be injured within, as well as a point of congregation by vagrants and Transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. Similarly, unsafe equipment may pose a threat to public health as well as risk of injury.

Section 1 of Lewis County Local Law No.2 of 2007 states that It is the purpose of this local law to provide for the safety, health, protection, and general welfare of Persons and property in the County of Lewis by requiring that such unsafe condition be repaired or demolished and removed.

Section 5, of Lewis County Local Law No.2 of 2007, states that the Code Enforcement Officer is responsible for Administration and enforcement of this law and that when the officer becomes aware of a building (whether vacant or Occupied) that may become a danger or unsafe to the public. Is open at the doorways-windows making it an attraction to minors, vagrants and trespassers, or may become a place of rodent infestation. Alternatively, presents any other danger to the health, morals or general welfare of the public, or is unfit for the Purpose for which it may lawfully be used.

Lewis County Local Law No.2 of 2007 directs that the Code Enforcement Officer shall investigate and report in writing to the Board of Legislators, findings and recommendations.

Section 6 of Lewis County Local Law No.2 of 2007 directs that the Board of Legislators shall consider such a report and by resolution determine:

- If it is in their opinion that such a building is unsafe and dangerous
  - Whether in addition to any other order of condemnation issued by the code official to order the repair of the same if it can be safely repaired
  - Whether to order its demolition and removal
  - In any event, to order that a Notice of its decision be served upon the property owners of record. with the Legislative notice containing the following information:
    - a. Provide the location of the violation.
    - b. Why the building is deemed unsafe or dangerous.
    - c. An order outlining the manner in which the building or equipment is to be made safe or and secure OR demolished and removed.
    - d. A statement that the securing or removal of such a building shall commence within 30 days of the service and be completed within 60 days
    - e. A date time and place of hearing before the Board of Legislators in relation to such dangerous or unsafe building with the hearing scheduled not less than 5 days from the date of service of the notice
    - f. A statement that in the event of neglect or refusal to comply with an order to secure or demolish and remove the building or equipment. The Board of Legislators is Authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which the violation is located and to institute a special proceeding to collect the cost of the demolition ,to include legal expenses
- ✦ It is my recommendation to the courts and Law Committee and to the Board of Legislators that the County take a proactive stance and remove what remains of this structure and remediate the site.

Such a recommendation is in keeping with the stated purpose of local law No.2 of 2007 to provide for the safety, health, protection, and general welfare of Persons and property in the County of Lewis by requiring that such unsafe condition be repaired or demolished and removed.

### **Unsafe structure -- Cole Boliver structure fire River Street Village of Lowville**

On June 24<sup>th</sup>, 2018 a fire of purported electrical origin significantly damaged a residential structure on 5495 River Street

The County of Lewis Unsafe Structures Law No. 2 of the year 2007 provides for the Repair or Removal of unsafe buildings equipment and collapsed structures.

Section 4(A) of the County local law No. 2 of the year 2007, states that that **"the provisions of this law shall apply to any building or structure or equipment located within the County of Lewis and where the town or Village where the property is located has relinquished to the County the responsibility of administering the Uniform Codes."**

Such a recommendation is in keeping with the stated purpose of local law No.2 of 2007 to provide for the safety, health, protection, and general welfare of Persons and property in the County of Lewis by requiring that such unsafe condition be repaired or demolished and removed.

**Notice of Condemnation--Linda and Francis Peters 8650 Erie Canal Road, Town of New Bremen**

On July 26<sup>th</sup> 2018, at 11:32 PM, Croghan Fire Company requested my presence at 8650 Erie Canal Road, upon arrival it was readily visible that a significant portion of the residential structures foundation wall had collapsed into the Basement.

The structure is a 1973 doublewide Manufactures Home that had been emplaced upon an un-reinforced concrete Block foundation. An inspection of the remaining foundation walls reveals multiple deflections and cracks.

Without the foundation providing bearing the floor of the residence along with the roof were notably deflected. To the point that entering onto the main floor of the structure was restricted by the onsite fire chief

The Collapse of the foundation wall also severed the septic line that led to the septic tank allowing affluent and feces to enter onto the basement floor

The Fire Company contacted National Grid, who upon arrival removed the electrical meter.

On July 26<sup>th</sup> 2018, I condemned the structure as an Unsafe Structure. The owners were provided shelter by William Houppert.

On that date I spoke to the owner; Linda Peters who stated she will be in contact with her insurance company to see if they will cover the cost of raising the manufactured home in order to repair the foundation. On that date Mrs. Peters indicated that if the insurance company does not provide coverage, she and her husband will simply abandon the structure.

On August 16, 2018 I received a written notice from Linda Peters stating that their insurance Company has provided notice that they will not provide coverage for this loss. Mrs. Peters went on to state that at this point they have no money to effect repairs, only their Social security income to survive on. Mrs. Peters states that she and her husband have moved out of the county.

On September 5<sup>th</sup> 2018, Mrs. Peters called the office and states that she is in conversation with Scott Keefer, who is interested in buying the property as is. Mrs. Peters States she will keep me informed

**Condemned Structure-Rose M. McKenna-Davis 6304-6308 E.main Str/4180 State Rte 26 Village of Turin**

This structure continues to be blight on the county it is an unsafe structure it has been condemned, as a fact the Legislatures in resolution 53- 2011 declared this structure to be unsafe, but limited their actions under the unsafe structures law to directing the owner to secure the building.

Officer Widrick reports that he has had conversations with the Mayor of the Village of Turin , who indicated that this matter needs to be re - addressed

As this board is aware, a written complaint will mandate that the code official bring this matter of a condemned structure back before the legislators as is required under written law.

**Department Information**

The Lewis County Building and Codes Department provides administration and enforcement of the New York State Uniform Fire Prevention and Building Codes for 21 of the counties 26 municipalities.

The Uniform codes consist of (9) separate Codes: Building, Residential, Existing Building, Mechanical, Fuel gas, Fire, Plumbing, Energy, Property Maintenance, Along with the 2017 New York State Uniform Code Supplement, the codes contain hundreds of Referenced Standards such as the National Electric Code. This department regularly interacts with the Departments of State, Labor, Health, Adirondack Park Agency, Social services, Adult Protective, Child Protective, Local Fire Departments and FEMA The department functions with three certified code enforcement officials along with a keyboard specialist

The Village of Lowville has opted out of enforcement of the Uniform Codes and relinquished that responsibility to Lewis County. As such the County of Lewis local law No. 2 of the year 2007 is applicable and enforced by this department for unsafe structures within the Village.

Section 4(A) of the county law is clear—if a municipality has relinquished control of the uniform codes to the County than the County of Lewis local law No. 2 of the year 2007 applies.

This building is without question a public hazard, this building is unsafe, remnants of this structure remain blight on the surrounding parcels and this structure needs to be removed under the Counties Unsafe Structure Law

As stated, Lewis County Local Law No.2 of 2007 is the local law providing for the repair or removal of unsafe equipment and collapsed structures. This law states that; "the Board of Legislators finds unsafe equipment and collapsed structures pose a threat to life and property in the County of Lewis." That Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general Deterioration.

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- ✦ It is my recommendation to the courts and Law Committee and to the Board of Legislators that the County take a proactive stance and remove what remains of this structure and remediate the site.

Further through an Intermunicipal agreement this department provides administration and enforcement of local land use (zoning) laws for (9) of those municipalities. Additionally this department Provides administration of Flood prevention laws for three municipalities. By directive of the legislator this department also administers and enforces the Counties Junkyard Law.

This department provides a dedicated, professional service to the residence of Lewis County. For the public's safety; we respond to chimney and structural fires when requested by the fire departments. In accordance to state law, this department annually conducts over 200 inspections of areas of assembly, apartment building and businesses.

On average the department issues 800+ building permits, Further; in cooperation with the Lewis County Real Property department, information relating to those permits is shared with the counties municipalities, for the purpose of providing notice to the municipalities that a change in the taxable value of a parcel may be warranted

As a society of written law, the actions and decisions made by this department must comply with the mandates of those laws codes and standards we enforce.

An individual County, city, town or village is not required to "adopt" the Uniform Code or to take any other affirmative step to make the Uniform Code effective within the municipality. The Uniform Code is automatically in effect in each municipality in the State by directive of the State Legislature.

An individual city, county, town, or village *cannot* choose to exclude itself from all or any part of the Uniform Code.

Executive Law § 381 requires every city, town and village to administer and enforce the Uniform Code within its boundaries. However, Executive Law § 381 permits a municipality to "opt out" of its administration and enforcement responsibilities by adopting a local law which provides that the municipality will not administer and enforce the Uniform Code. Any such local law must be enacted prior to July 1 in any year, and becomes effective on January 1 of the following year. If a municipality "opts out" of its administration and enforcement responsibilities by adopting such a local law, the responsibility for administering and enforcing the Uniform Code passes to the county in which the municipality is located

Article 18 of the Executive Law directs the Secretary of State to promulgate regulations prescribing minimum standards for administration and enforcement of the Uniform Code. The Secretary has adopted such regulations in 19 NYCRR Part 1203. Any municipal program for administration and enforcement of the Uniform Code must conform to the requirements of Part 1203, and must include all the following features:

- **Designating Responsibility for Code Enforcement.**
- **Building Permits** must be required for any work which is required to conform to the Uniform Code. Certain limited exceptions to permits are found within Title 19 nycrr Part 1203 and within the New York State Uniform code Supplement.
- **Construction Inspections** of certain specified elements of the construction process must be required. Building permits holders must keep work accessible and exposed until inspected and accepted by the municipality.
- **Stop Work Orders** must be issued to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit.
- **Certificates of Occupancy or Compliance** is required (1) for all work for which a building permit was required and (2) whenever the general occupancy classification of a building is changed.
- **Notifications** The code enforcement program must include procedures for the chief of any fire department / company providing fire fighting services for a property to notify the code enforcement official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.
- **Unsafe Structures and Equipment** The code enforcement program must include procedures for identifying and addressing unsafe structures and equipment.

- **Operating Permits** Operating permits must be required for conducting certain specified activities or using certain specified categories of buildings.
- **Fire Safety and Property Maintenance Inspections** The code enforcement program must provide for fire safety and property maintenance inspections of all buildings which contain:

An area of public assembly with an occupant load of 50 or greater (annually)

All multiple dwellings which contain 3 or more dwelling units within a structure (on a 3 year basis)

All nonresidential such as business, manufacturing occupancies excluding agricultural buildings used directly and solely for agricultural purposes by a farmer engaged in a farming operation (on a 3 year basis)

**Complaint Procedures** The code enforcement program must include procedures for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code.

**Record Keeping** The code enforcement program must establish a system of records of the features and activities specified in above and of fees, if any, charged and collected, records must be kept indefinitely

**Reports** Every municipality responsible for administration and enforcement of the Uniform Code is required to submit an annual report of its activities relative to administration and enforcement of the Uniform Code to the Secretary of State. The Department of State has developed forms to be used in satisfying this reporting obligation.

**Training** Municipal officials should also be aware that all local code enforcement personnel must complete a prescribed program of code enforcement training consisting of 120 hours, and there after must annually receive a minimum of 24 hours of continuing education

Regards,

Ward John Dailey  
Sr. Code Official  
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Lowville, New York  
13367