



Loveland Fire & Rescue Advisory Commission Meeting Minutes

Wednesday, February 12, 2014, 5:30 p.m.

**Fire Administration Building (FAB)
Emergency Operations Center (EOC), 2nd Floor
410 E. 5th St., Loveland, CO 80537**

Meeting called to order at 5:30 p.m.

FRAC Members Present: Chair Jonathan (Jon) Smela, Fire Chief Randy Mirowski, Paul Pfeiffer, David (Dave) Adams, William (Willy) Tillman, Eugene (Gene) Culbertson, Leroy (Andy) Anderson, Bob Boggio, Elton Bingham and Bonnie Wright.

Others in attendance: Assistant City Attorney Teresa Ablao, Division Chief Ned Sparks, Deputy Fire Marshal Carie Dann and Plan Reviewer Ingrid McMillan-Ernst.

FRAC Members Absent: Mayor Cecil Gutierrez

1. Minutes approval: presented by Chair Jon Smela.

Bob Boggio moved to approve the January 15th, 2014 minutes and Dave Adams seconded the motion. Motion carried.

2. Lincoln Hotel Appeal Hearing began at 5:33 p.m.

This was a Public hearing regarding an appeal concerning fire safety issues of the Lincoln Hotel Apartments. The entire hearing was digitally recorded and is the record of the proceeding.

Roll Call: All parties present identified who they were. Hearing called at 5:33 p.m.

Proceedings:

Preliminaries: Ms. Ablao asked if any members had a personal or financial conflict that would require recusal. FRAC Member Paul Pfeiffer - recused himself due to personal conflict of interest and did not participate in the hearing or vote on the matter. No other members indicated any conflicts.

Staff Presentation: LFRA Fire Chief Randy Mirowski presented the Lincoln Hotel Apartments history with Fire Department, timelines, the HPC direction in 2013, the fire marshal's orders being appealed requiring an approved secondary means of egress and

removal of storage from the unprotected basement. LFRA Fire Marshal, Ned Sparks played a three minute video clip of the April 3, 1988 Palmer Building fire that started in an unprotected basement. He also gave a synopsis of the fire and how LFRD responded.

FRAC commission member, Gene Culbertson asked if there were any fatalities from the fire. Fire Marshal Sparks responded that there were not and that the structure contained business offices only.

Chief Mirowski finished his presentation up with Predictable is Preventable He stated that history can be a great teacher for us if we learn from those lessons of the past. He cited the Palmer Building built in the age and the era of Lincoln Hotel Apartments and that the 1988 fire clearly demonstrates the significant damage to property and sometimes life. He concluded that exiting and storage are very serious life safety and property concerns. In the absence of sprinklers, these two code requirements (adequate egress and no storage in an unprotected basement) are critical and crucial for life safety and property preservation. Approved exiting is necessary and the removal of the storage for the protection of the basement area is mandatory for the protection of life and property.

Applicant presentation

Shawn Rutledge, legal counsel for Charlie and Denise Salwei, owners of Lincoln Hotel Apartments, gave a PowerPoint presentation about the hotel. He started the presentation that the order requiring a secondary means of egress or a fire sprinkler system was not contemplated by the building owners when they began renovation of the building to provide low income housing apartments in 2004. Mr. Rutledge urged the Commission to find that applicable requirements of the fire code will work an undue hardship based on financial hardship and fairness and to revoke the order requiring adequate egress and removal of storage in the unprotected basement. He further argued that if the order stands, that it is effective only upon condition that the city pays for it. He mentioned the 2004 Rolf Jensen Fire Report recommendation for fire sprinkling system and that everybody would probably agree that it would probably be the best technology available however, it was not required. They were to provide a secondary means of egress and that could be an exterior fire escape structure or a ladder or a stairway.

Mr. Salwei also gave a PowerPoint presentation about the improvements they have made to the structure since purchased in 2002. They had a concept review done with the City of Loveland and a Life Fire Safety Analysis done. The Life Fire Safety Analysis had five recommendations that were recommended to be completed to improve the life safety of the building. He read a letter he received from former Deputy Fire Marshal Romeo Gervais that he agreed these five recommendations were acceptable.

Mr. Salwei showed slides addressing the fire escape and mentioned that he agrees that the building would be safer with a sprinkler system but it was not one of the recommendations and he did not believe it was required by the code. He added that after numerous meetings with the city building and fire department it was decided that the best place for the fire escape would be on the east façade of the building. This is the result of an exhaustive evaluation that was done by numerous people in the building and fire

department which was also included in the packet Mr. Salwei provided. The Fire escape was not completed due to the anticipation that CDOT would not allow it.

Public Comment

Barry Floyd, a downtown business owner expressed support for the sprinkler system as being a reasonable compromise and to consider going to Economic Development at the City of Loveland to assist with the cost. He added that there are lots of factors to consider.

Roger Salwei, asked for clarification regarding if the sprinklers were being required in past reports or not and was it one of the recommendations. Charles Salwei and Plan Reviewer Ingrid McMillan-Ernst provided answers to the inquiry.

Roger Salwei also commented that even with the building never being sprinklered and all of the C.O.s being issued, did that deem the property safe and his confusion and as to why they deemed safe without a sprinkler system.

Jim Kneese (sp?), spoke in support of the appeal, and indicated that the changes would require a substantial amount of money and agrees with the Salwei's asking for help with that.

Chair Smela asked if were any other comments or questions before closing the public hearing and there was none.

Commission questions of staff, applicant, others

Some discussion was had between Barry Floyd and Chief Mirowski and Ned Sparks regarding whether the water pressure and supply downtown was adequate.

FRAC member Bob Boggio asked the Chief if there was any data that compares the success of people exiting a building using a stairway versus a ladder. The Chief was unaware of any studies that have been done but, but indicated that an article was written recently regarding an incident in Colorado Springs in which a fire escape failed and killed a person when it collapsed. The author of the article stated that these are antiquated means of egress and said that the only way to protect the public is to protect the interior means of egress.

Mr. Salwei provided photographs of the Lincoln Hotel Apartments proposed fire escape.

FRAC Member Dave Adams asked Mr. Salwei the percentage of seniors and handicapped people who currently live in the hotel. Per Mr. Salwei, three tenants live in the building (around 10%) that is 65 and over and there are no handicapped people living in the building right now.

FRAC Member Willie Tillman asked if there is any precedent for the city paying for or sharing the cost. Assistant City Attorney Teresa Ablao stated that the FRAC would not have the ability or authority to say who pays for what. Mr. Rutledge said that what he is suggesting is this decision would be suspended and this can be enforced under a

condition and that condition would be that we don't pay for it. Ms. Ablao gave clarification and read directly from the code the things the commission is allowed to make decisions on and/or rescind or modify.

Chair Smela asked staff to highlight sections of the 2012 ISE stairwell as primary means of egress as well as prohibit the basement storage. Deputy Fire Marshal Carie Dann provided in additional code section information for means of egress and storage: For the separation and the storage for the residential occupancy is Table 508.4 directly out of the international building code; for the means of egress and the interior protected stairwell Table 1021.21, also 1021.22, 1014.3, table 1015.1 and Table 1016.2, these were taken from the 2012 International Fire Code.

Mr. Rutledge asked if she was reading provisions out of the international fire code that pertain to egress. Deputy Fire Marshal Dann said that is correct. There was some discussion between Chief Mirowski, Mr. Rutledge and DFM Dann regarding 1997 code requirements.

Mr. Rutledge mentioned that there would be a \$90 a month more in rent for the tenants to cover the cost of the sprinkler installation.

There was additional discussion between the Chief and Mr. Rutledge as well as FRAC member Boggio regarding the interior protective stairwell and eliminating the storage in basement or protect the basement.

Mrs. Salwei commented that when they were doing the project they wanted to improve it and make it nicer and safer for their tenants.

Bob Boggio voiced concern about if a fire broke out and got out of control and spread down the block, is that something that those other building owners are aware of. Chief Mirowski responded that the answer to that is probably no.

Bob Boggio asked if the adjacent buildings have adequate fire escapes and have met code requirements. The Chief responded that a building like Henry's, which is right next door, is a different type of establishment than the Lincoln Hotel Apartments. Henry's would comply under a different code which is not the same as the Lincoln Hotel Apartments. Deputy Fire Marshal Dann commented about the Rialto Theater having code compliant exiting and stairwells under the 2009 building code.

Earlier during his presentation, Chief Mirowski mentioned that if there is a fire in the Lincoln Hotel Apartments and if we are unable to bring it under control in room and contents quickly, and it gets into the structure itself, it is likely we could lose the building. If we lose that building we will try and stop it at Henry's. If the fire can't be stopped at Henry's, we may very well lose the Rialto Theater.

Chair Jon Smela asked Chief Mirowski for clarification about the unprotected basement. Chief Mirowski stated that for a basement to be protected it would have to be sheet rocked, taped, mudded and separated and there would be certain requirements for that

sheet rock and taping to be compliant. Plan Reviewer Ingrid McMillan-Ernst commented that assembly and square footage of the basement also kicks in requirements for making improvements and sometimes due to size would require sprinkler systems. Deputy Fire Marshal Dann mentioned the differences between storage areas being sprinklered and not being sprinklered and whether it is considered a higher risk or lower risk storage area.

Mr. Salwei asked about armed smoke and heat detectors in the basement make it safer. Deputy Fire Marshal Dann responded it probably does make it safer but does not render the basement compliant with specific code requirements.

Bob Boggio asked about what the \$300,000 is going to cover. Mr. Salwei responded that he has one bid for \$232,000 for the installation of a sprinkler system for the building, a bid for \$18,000 to bring a water fire line into the building and a number they are unsure of but added another \$50,000 in for additional costs.

A discussion between Mr. Salwei and Chief Mirowski ensued regarding whether the estimate was on surface mounting the pipe or was that hiding the pipes in some kind of a soffit. Mr. Salwei responded that he was not sure. There was additional discussion between the Chief and Mr. Salwei about the type of mounting in a historical type of building. Plan Reviewer Ingrid McMillan-Ernst gave additional information about her experience with sprinkler permits, contractors and costs.

FRAC member, Gene Culbertson also questioned the \$300,000 figure. Mr. Rutledge stated that it is not a hard number by any means but they have a burden here that this is an expensive proposition.

FRAC member, Bob Boggio asked if the interior protective stairway would cost more or less. Mr. Rutledge stated it would be substantially more and is assuming that the fire sprinkler system would be the better alternative. Chief Mirowski agreed.

FRAC Member Elton Bingham asked about the basement protection. Mr. Salwei stated his concern that he was not aware of the basement issue until the 2013 Inspection. He stated the basement is around 5,200 square feet that he might have to sheet rock. Chief Mirowski commented to board member Bingham's question that there are two options: sheetrock the basement or move the storage. Mr. Salwei asked if that would be for the entire basement. The Chief stated, yes.

There was discussion between Mr. Salwei the Chief commented that he did not think that regarding the concrete floor on the first floor. Plan Reviewer McMillan-Ernst commented that it is unclear whether the concrete floor referred to by Mr. Salwei is a concrete deck that would be compliant fire separation and approved. Fire Marshal Sparks added that it is not about the layer of concrete on top of the floor, it is about underneath that is all wooden exposed area for the fire to actually burn. If there was a fire in the basement, it would burn up all that stuff and then the weight of that material would actually cause that floor to fail.

Mr. Salwei asked if he sprinklered that building, would he have to sheetrock the ceiling down there. The response was no; not if the basement is sprinklered.

Chair Jon Smela asked if the commission has anymore clarifying questions.

The Chief addressed one of the citizen's questions regarding C.O.s being issued to 26 apartments. The answer to that each CO was done independently and individually. The entirety of the structure/project was not a part of those 26 C.O.s. Plan Reviewer McMillan-Ernst commented that each permit filed contained a blanket description of remodel work and the plans that went with it were without details and a lot of notations of fire separation walls. Looking at some of the comments back from the building department, the whole scope may not have been clear from the beginning both on the owners' side and on the building department's side.

Mr. Rutledge commented that as far as the permits go there was some confusion. He added that there was a fire inspection in August of 2011 and what was found that there were open juncture boxes and open wiring splices that were prohibited. Those were fixed.

Deputy Fire Marshal Dann added that the units' plans showed upgrade electrical in the kitchens and when inspected, that was all they were to inspect. No permit request was submitted for the fire escape, the alternative ladder and other items.

Close Public Hearing

Chair Jon Smela asked again if there were any more questions before closing the public hearing. There were none.

Discussion/Deliberation/Findings by Commission

FRAC members Bingham and Adams asked Chair Smela for clarification on the questions being amongst themselves or the entire group. Chair Smela stated that it is intended to be more internal discussion and if there are questions we need clarity on we can ask them at this point. A question was posed whether the deliberations and discussion would be private. Ms. Ablao stated that the commission members could not meet in private since it is a public hearing; but the commission could move to go into executive session for legal advice only.

FRAC member Bob Boggio stated that clearly there is a cost issue between a fire escape, sprinklers and an interior shielded stairwell. All of which are cost-prohibitive from the Salwei's point of view. He suggested passing this onto the city council to uphold the Chief's analysis and put it on the city, based on if it qualifies or not for some internal economic development assistance in the name of safety. He also recommended to the Salwei's that they be armed with better numbers of actual costs.

FRAC member Adams asked if the building was originally a hotel. Mr. Salwei said it was originally built as the Loveland State Mercantile. FRAC member Adams feels very strongly that the public safety has to come first and he agrees with Bob and the citizen about petitioning the city to correct the situation.

FRAC member Tillman also strongly agreed that something has to be done and to uphold the previous decisions here and take it to those who can do more than FRAC can do.

FRAC member Culbertson supports FRAC member Boggio's premise.

FRAC member Anderson strongly agreed that something needs to be done and is unsure what avenue to take. He thinks everyone in the room is probably concerned for the safety of the people involved and the financial end of it has to be devastating.

FRAC member Adams asked how the modifications would affect the building in terms of the historical society. Mr. Rutledge commented that he does not think there is anything internal that would cause any problem. FRAC member Adams commented that if the Salwei's did a sprinkler system, then all of this would go away. The Chief stated that is correct. Plan Reviewer McMillan-Ernst clarified that it is for this building as a compromise measure. In any other building, sprinklers do not erase the requirement of two exits.

FRAC member Adams made some additional comments about safety issues and cost. Chair Smela went over the findings regarding if the Chief's actions were justified under the code and they have clearly highlighted the code and some compromise. He had a question regarding undue hardship and is the undue hardship strictly financial.

Ms. Ablao and Mr. Rutledge discussed the definition of undue hardship.

Chair Smela stated there is a large set of circumstances that have happened over the past 10 years and there have been a lot of people involved. Tracing back through that and trying to make a judgment is very difficult. Chair Smela stated he is in agreement with FRAC member Boggio that the Chief's actions are justified by the code and the commission is not in a place where they can do anything financially that would help with that.

Chair Smela asked if there was any further discussion before calling for a motion. There was none. **Chair calls for Motion.**


FRAC member Bingham made a motion to rescind strict interpretation and enforcement of the code due to undue hardship. There was no second to the motion. The motion failed.

FRAC member Boggio made a motion to uphold the Chief's order as stated by the fire authority and that the commission is not empowered enough to make any kind of determination about any kind of financial hardship and that the issue needs to be forwarded to the city council in the context of Economic Development - A trade off of resident safety versus the cost of making these repairs. FRAC member Culbertson seconded the motion.

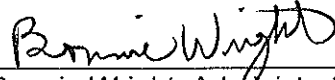
Chair Smela asked for any further discussion on the motion that has been made and seconded. No other discussion. The Motion carried 6-1.

Adjournment: Having no further business, the meeting was adjourned at 7:48 p.m. The next FRAC meeting will be Wednesday, March 12th, 2014 at 5:30 p.m. in the EOC.

Minutes respectfully submitted by Bonnie Wright, Administrative Technician, LFRA.



Jon Smela, FRAC Chair



Bonnie Wright, Administrative Tech.,
LFRA