

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

January 8, 2014

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:32 p.m. in the City Council Conference Room on the 8th day of January, 2014, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Holman, Kovach, and Chairman Miller

ABSENT: Councilmember Jungman

OTHERS PRESENT: Councilmember Robert Castleberry, Ward Three
Ms. Susan Connors, Planning and Community
Development Director
Mr. Terry Floyd, Development Coordinator
Mr. John Lundgren, 1824 Atchison #4
Ms. Leah Messner, Assistant City Attorney
Ms. Linda Price, Revitalization Manager
Ms. Syndi Runyon, Administrative Assistant IV

Item 1, being:

CONTINUED DISCUSSION REGARDING REGISTRATION OF VACANT/ABANDONED PROPERTIES.

Ms. Susan Connors, Director of Planning and Community Development, said the City Council Oversight Committee reviewed an ordinance in its December 11, 2013, meeting regarding vacant and/or abandoned properties. She said vacant and/or abandoned properties have an impact on adjacent properties as well as the neighborhood as a whole. Ms. Connors said the City of Tulsa adopted a vacant/abandoned property registration ordinance in July, 2010, and Oklahoma City (OKC) adopted a similar ordinance on December 3, 2013. The Oversight Committee requested Staff bring additional information to the next Oversight Committee meeting regarding vacant/abandoned property issues that include:

- Researching similar college cities, e.g., Boulder, Waco, Lawrence, Manhattan, Fayetteville, Ann Arbor, and Columbia, to see if they have similar issues with vacant and/or abandoned property and whether or not they have a vacant/abandoned property ordinance;
- Contacting the Cleveland County Assessor to see if taxes are adjusted for vacant houses;
- Looking at administrative fee system and cost structure for violators; and
- Visiting the City of Tulsa to research how their vacant/abandoned property ordinance process is working for their community.

Ms. Connors said the City of Tulsa's ordinance is focused primarily on buildings that have been determined to be unsecured and abandoned. She said the building must be registered, which includes a description of the premises; names, addresses, and telephone number of owners, lien holders, and a local person who is authorized to act for the owner; proof of insurance; and neglected vacant building or residential structure plan. She said there is a \$50 annual registration fee and a \$500 annual registration fee if the property remains vacant or has received a notice of code violation in previous 24 months or until the property is demolished or rehabilitated and occupied. The City of Tulsa must also be notified of any change in ownership.

Ms. Connors said property owners that register and meet criteria for neglected vacant buildings or residential structures have three options. Property owners can submit a demolition plan, submit a plan for securing and maintaining the building in accordance with the City of Tulsa standards (an insurance or cash bond must be posted), or they can submit a rehabilitation plan with a timeline for re-occupancy. She said rehabilitation plans cannot exceed 365 days from the date of submission, must include progress benchmarks at least every four months, requires insurance or a cash bond be posted, and a fee of \$500 is charged if the timeline is not adhered to. Should the property owner fail to comply with the plan, the City of Tulsa may make repairs to the property to keep it in compliance with City code and bill the owner for those repairs, revoke the plan, and fine the owner up to \$1,000 and/or 60 days in jail.

Item 1, continued:

Ms. Connors said Staff has been unable to get in touch with a Staff person at the City of Tulsa as to how the process is working for their community, but will continue to try to reach someone.

Ms. Connors said Oklahoma City's (OKC) ordinance is too new to determine how well that process will work, but OKC's goal is to create a registration process and assessment program for vacant or abandoned buildings in order to ensure buildings are promptly rehabilitated, reoccupied, or demolished. Owners of vacant residential or commercial buildings must submit an application to obtain a certificate of registration – *residential* within 30 days after the building becomes vacant and *commercial* within 12 months after the building becomes vacant. She said the application includes the address of the vacant building(s); identification of and contact information for the applicant; identification of and contact information for the person or persons responsible for maintenance of the building; and a plan and timeline for occupancy or disposition of the building. The property owner must pay an initial fee of \$285 with an annual renewal fee of \$190. She said Staff will continue to monitor OKC to determine how their program is working.

Ms. Connors said Staff contacted Ann Arbor, Michigan; Boulder, Colorado; Columbia, Missouri; Fayetteville, Arkansas; Lawrence, Kansas; Lincoln, Nebraska; Manhattan, Kansas; and Waco, Texas. Of these cities, Ann Arbor is the only one that has a registration program pertaining to vacant buildings and includes a \$25 registration fee. She said there is no penalty or fine for not registering and it seems to be an ineffective program; however, they stated they do not have a very big problem with vacant structures. Chairman Miller said Boulder's property values are high so she is not surprised they do not have issues with vacant or abandoned buildings. Ms. Connors said Boulder does not have many vacant buildings nor do they have a lot of new construction because their rezoning and permitting process can take up to two years. Ms. Connors said many of the cities stated they did not have a big problem with vacant buildings and if they do have a problem they work violations on a case-by-case basis.

Councilmember Castleberry asked how many vacant buildings are in Norman and Ms. Connors said 123 have been identified through Code Compliance Officers and Police Officers. Councilmember Kovach asked if that figure included residential and commercial properties and Ms. Connors said yes. Councilmember Castleberry asked how many buildings are in Norman and Ms. Connors said approximately 30,000. Councilmember Castleberry said 123 vacant properties out of 30,000 buildings seems relatively low and asked if the City of Norman really has a problem. Ms. Connors said some people may think the City has a problem especially those that have a vacant building in their neighborhood. Ms. Connors said some of the issues are foreclosed homes that take time to be sold and rehabilitated. Councilmember Castleberry said he understands that a vacant home next door to you may seem like a problem, but on a global scale it is not a problem.

Ms. Connors said central Norman has a lot of older, dilapidated homes and vacant structures that the City needs to move forward on demolition. Councilmember Castleberry asked what is preventing the City from doing that and Ms. Connors said there is a process and the building has to meet stringent criteria to ensure it is dilapidated enough to be demolished.

Councilmember Kovach asked whether the owner had been contacted on a property he reported as unsafe or dilapidated and Ms. Linda Price, Revitalization Manager, said that particular property had a building permit. She said the owner was preparing to pour the stem wall that exposed a portion of the building, but cold weather delayed that and after being contacted, the owner placed plywood around the perimeter the next day. Ms. Price said the only time an owner's action has not been taken on property considered unsafe, are properties where the owners have passed away and the property is in probate. She said occasionally there are owners who live out of town that cannot act immediately, but there are some property owners that simply do not care and take no action.

Item 1, continued:

Chairman Miller asked how many properties have actually progressed to the demolition stage in the last five years and Ms. Price said five.

Councilmember Castleberry asked how registration would help the City solve this problem and Ms. Leah Messner, Assistant City Attorney, said the primary benefit is local contact information. Ms. Messner said registration can also be a helpful tool for making the case for demolition if it should get that far. She said if the property owner fails to register, that is an additional argument for the case.

Chairman Miller asked why information from the Cleveland County Tax Assessor is not sufficient enough for contact information and Ms. Messner said the property owner does not always update the information with the County. She said a recent example is a property owner who came in asking about a code violation. He found out that the City sent him a letter notifying him about a violation at one of his properties; however, since the letter was sent to the rental property address, the tenant threw the letter away. Councilmember Kovach asked how the property owner found out about the violation and Ms. Messner was not sure, but thought the property owner's daughter was the renter and eventually told him.

Councilmember Castleberry asked if the people the City have trouble locating will register and Ms. Messner said she did not know. Ms. Connors felt that if registering was a requirement by law, people would be more inclined to register. Councilmember Kovach felt registering would be a tremendous burden on a lot of people who are good property owners. He said Norman is a college town and sometimes a property may be vacant for a couple of months during the summer, but leased by fall and that property owner will have to register. Ms. Connors said in OKC, the property has to be vacant for 180 days and utilities have to be shut off for sixty days before it is deemed vacant. Ms. Messner said Tulsa requires registration only if the property owner has received a code enforcement violation within the last 24 months. She said not everyone would have to register. Councilmember Kovach liked the code enforcement trigger because that narrowed the pool to people who are not being good neighbors. He would like any proposed language to be as narrow as possible so the City is not criticized for burdening people who are doing the right thing or creating a bureaucratic nightmare for Staff.

Chairman Miller said the topic of registering came from several constituents saying they have a problem in their neighborhood and it seems to them nothing is being done about it. She said it worries people who have young children to have a vacant house in their neighborhood that keeps getting broken into and the possibility that those people may be doing drugs. Councilmember Castleberry said registration will not solve that problem. He asked if increasing code enforcement and fines would help and Ms. Connors said if there was a registration, Staff would have a local contact person to call and hold responsible for taking care of violations. She said registration would alert police to vacant properties so they can monitor the property. Councilmember Castleberry said police and Code Enforcement will monitor vacant property no matter who owns it so how would registration help them monitor property. Ms. Connors said it takes awhile to discover vacant properties, but if someone registers the building as vacant the City can be more proactive. Chairman Miller said police can monitor activity, but if the building itself is not safe then that is another problem for the neighborhood. She said the City needs to be careful to target the actual problem and felt that although it is not a huge problem it is still a problem when it is in your neighborhood.

Councilmember Kovach said in the past, Council has given property owners facing demolition more time to remedy the situation. He said keeping in mind that Council may be willing to do that, is there a way to accelerate some of the steps in the demolition process and Ms. Connors said current language could be modified to make exceptions.

Councilmember Kovach asked if fines could be escalated on constant abusers and Ms. Messner said that is currently done. She said the maximum fine is \$750 or 60 days in jail. Ms. Price said it is not cheap if the City has to secure a property and if the property owner does not pay, a lien is filed against the property.

Item 1, continued:

Chairman Miller said Ann Arbor has language for *dangerous buildings* and asked if Norman has anything similar. She said Ann Arbor language is very specific about what constitutes a dangerous building and if the City of Norman establishes a building as dangerous can the City intervene sooner? Ms. Messner said Norman's regulations on dilapidated buildings is found in Section 2-204 and reads as follows:

1. A structure which, through neglect or damage, lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety or welfare of the general public;
2. A structure which is determined by the Code Compliance Officer in conjunction with the Director of Planning and Community Development or his or her designee to be an unsecured building under section 10-203 of this Code, more than three (3) times within any twelve-month period;
3. A structure which has been boarded and secured under section 10-201 of this Code, for more than thirty-six (36) consecutive months; and
4. A structure declared by the municipal governing body to constitute a public nuisance.

Chairman Miller felt more specific descriptors would be helpful. Ms. Price said the broad language in the ordinance allows the City more leeway in working with property owners. She said the City reacts quickly if property is considered to be a danger. She said the Community Planning and Transportation Committee (CPTC) is recommending changes on securing a building. Ms. Messner said State statutes changed language to state that if a building has been boarded and secured for more than eighteen (18) months then that is grounds for demolition. She said the City should consider mirroring State law.

Councilmember Holman said College Park Apartments on Findlay Avenue seems to meet dilapidated building criteria and Ms. Connors said the apartments are not unsecured. Ms. Price told Councilmember Holman that if he believes the apartments are not secured, the City needs to know.

Chairman Miller said Staff provided Council with a list of vacant properties and there are 29 vacant structures in Ward Four (4) alone. Ms. Price said many are in the process of being renovated and are not considered dangerous. Chairman Miller said they are dangerous if people in that neighborhood are reporting people breaking into them.

Ms. Connors said there is no successful solution, but having a registration alerts the owners the City is aware of the buildings and wants to improve buildings within the City. Chairman Miller asked if this would be a targeted registration and Ms. Connors said yes, Staff will develop specific criteria to target only those properties that have multiple violations.

Councilmember Castleberry said every City has vacant properties and asked if registering these buildings really would make enough difference to burden the 98% that take care of their property. Ms. Messner said Tulsa's ordinance requires a plan to be submitted with the registration regarding whether the property will be boarded up, renovated, or demolished and if it is to be boarded up, a fee is required. Councilmember Kovach asked what triggers are set for code violations and Ms. Connors said in Tulsa it is two violations within 24 months. Councilmember Kovach felt two violations in 24 months is too low of a threshold. Councilmember Kovach suggested only properties with three code violations in a one year period will be required to register and provide a local contact. Councilmember Castleberry felt that would be better than making every vacant property owner register, but felt this is the first step toward landlord registration and he wants to be clear that the City has no intention of requiring landlord registration. He also wants it to be clear the City is only targeting abandoned properties.

Item 1, continued:

Councilmember Castleberry said if he owned a vacant building that was repeatedly broken into, would that be his problem as the property owner or is it the Police Department's problem since breaking into a secured building is a crime. Ms. Price said it would depend on if the building is abandoned or just vacant at the time of the break in. She said some property owners abandon buildings and do not take care of them so they get broken into, but if it is a secured vacant building being broken into, then that is a crime. Ms. Connors said it is not the property owner's fault if someone breaks into the building nor can the Police Department's responsibility ensure crime will not happen; however, police will monitor the property if they are aware of a problem.

Chairman Miller said currently there are properties that meet criteria for dilapidated buildings which meant they have been vacant for awhile, utilities have been turned off, and no one is taking care of them. Councilmember Castleberry asked if the Committee is discussing abandoned/secured buildings or abandoned/unsecured buildings and Ms. Connors said Staff can develop criteria, but Council will make those distinctions. Chairman Miller felt whether or not a building is safe needs to be considered as well.

Councilmember Kovach suggested Staff come back to the Committee with proposed thresholds for what the City will consider abandoned as well as proposed thresholds for the number of code enforcement violations that would trigger registration and said he prefers a threshold of three violations per year.

Ms. Price said such a small percentage of buildings are actually dilapidated so there will not be many people required to register. Councilmember Castleberry asked why the City is even dealing with such a small problem and Chairman Miller said because it is a problem for the neighborhoods. Councilmember Castleberry suggested shortening the timeline for demolition. Councilmember Kovach said the City can do both if property owners are sufficiently targeted. He said the City can go after bad property owners who do not take care of their property and this ordinance would encourage them to take better care of the property and if they do not, the City can accelerate the demolition.

Chairman Miller said abandoned/vacant building are similar to graffiti, if you take care of graffiti it does not spread like it would if you just leave it there. She said if the City deals with the problem now it will not affect a lot of property owners, but it does affect many people living in those neighborhoods. She said an ordinance requiring registration will show people the City is serious about how the community looks. Councilmember Kovach agreed and said if it is the right thing and not overly burdensome, he does not have a problem with it.

Chairman Miller asked Staff to prepare language for review at next month's meeting.

Items submitted for the record

1. Memorandum dated January 2, 2014, from Susan Connors, Director of Planning and Community Development, and Leah Messner, Assistant City Attorney, to City Council Oversight Committee with attachments, Vacant Property Registration Survey; City of Ann Arbor Dangerous Buildings, excerpts of Section 8:380, 8:38, and 8:382 of Chapter 101 of Title VIII of the Code of the City of Ann Arbor; and City of Ann Arbor Planning and Development Services Registration Form for Unoccupied Buildings

Item 2, being:

MISCELLANEOUS DISCUSSION.

Mr. John Lundgren, 1824 Atchison #4, said he read an article in the newspaper regarding three or more unrelated persons living in a single-family residence. He does not believe the City can legally enforce the ordinance because of fair housing laws. Ms. Messner said the ordinance has been a part of the City's Code since the 1950's and similar ordinances have withstood Supreme Court challenges. She said the Fair Housing Act does, in some narrow instances, trump the ordinance for people that are qualified disabled. She said in those situations the City can only enforce the building occupancy limits. Ms. Messner said she would be happy to meet with Mr. Lundgren regarding the ordinance and answer his questions.

Ms. Connors said the article was in the newspaper because the CTPC discussed the ordinance in November and December and Staff recently prepared a memorandum for that Committee. She did not believe the topic was moving out of that Committee. Councilmember Kovach said the topic can be discussed by the Oversight Committee if the Chair wishes. His concern is that a lot of stakeholders were not aware that that discussion was taking place so they did not attend. He said when you have a discussion and do not have all the information it is not a good discussion. He felt the topic needed a better review. He said there are a lot of non-traditional family situations in Norman including people who foster children and this ordinance is prejudicial against that. He did not think this is what the community wanted.

Chairman Miller told Mr. Lundgren the City needs to decide which committee needs to have this discussion and put it on an agenda. She said until the item is placed on an agenda, the in-depth public discussion he wants cannot take place.

Chairman Miller asked if Committee members wanted this discussion to be placed on the Oversight Committee agenda and Councilmembers Castleberry and Kovach said yes.

Chairman Miller asked Mr. Lundgren to meet with Ms. Messner and Staff will notify him when this topic is placed on a committee agenda.

ADJOURNMENT.

The meeting adjourned at 6:25 p.m.