



**BUILDING AND STANDARDS COMMISSION
MINUTES**

**REGULAR MEETING
Wednesday, May 28, 2014**

The Building and Standards Commission convened in a regular meeting on Wednesday, May 28, 2014, at City Hall, in the Boards and Commission Room, 301 West 2nd Street, Austin, Texas.

Madam Chair, Ethelynn Beebe called the Commission Meeting to order at 6:32 p.m.

Commission Members in Attendance:

Ethelynn Beebe, Chair; David Brown, Vice-chair; Steven Alloway; Stacy Kaplowitz; Tim Hill; Daniel Gonzalez; Charles Cloutman.

Staff in Attendance: Christopher Moore - Building & Standards Commission Coordinator; Patricia Link - Assistant City Attorney; Carl Smart - Director Code Compliance Department; Merlinda Coleman - Program Specialist; Greg Guernsey - Director, Planning, Development and Review Department; Chris Maldonado - Code Compliance Inspector, Michael Dial - Code Compliance Inspector

1. CITIZEN COMMUNICATION: GENERAL

- A. Thayer Smith, Austin Fire Department battalion chief and coordinator for AFD's Dangerous Structure Program, urges the need to expedite demolition of unsafe buildings. Abandoned structures are particularly dangerous to firefighters. A case in point is the Harold Court structure ruled on for demolition in February; it still stands.
- B. Stuart Harry Hersh, Austin resident who is a renter, spoke regarding recommendations he made at City Council meeting related to accessible ramps, which the Council did not act on. Mr. Hersh questioned if item 5A on the agenda was properly noticed and whether anyone would be allowed to speak on the item.

2. BRIEFING

Director Carl Smart reported on options available to the City after the Building and Standards Commission issues an order. He offered three options: collections, tax foreclosures, and Chapter 54 lawsuits; he explained what is involved with each of the options. Additionally, Director Smart reported that the City may be able to take action based on the Building and Standards Commission order and then place a lien on the property, and the City can also file affidavits in municipal court.

Madam Chair Beebe then opened the floor for discussion. At end of discussion, Madam Chair Beebe encouraged Director Smart and his staff to be as aggressive as possible in using any options available.

3. APPROVAL OF MINUTES

Motion was made by Commissioner Hill to approve the minutes of BSC meetings held on February 26, 2014, March 26, 2014 and April 23, 2014. Vice Chair Brown seconded. Vote was taken; motion passed.

4. PUBLIC HEARINGS

A. APPEALS CASES

- I. 84 Chalmers Avenue; Rosaleo Arevalo & Elizabeth Gill
CL # 2014-050206

The appeal was withdrawn.

- ii. 502 Dawson Road; PPT Development, LP
CL # 2014-050849

The owners and staff were able to come to agreement on the proposed agreed order. The owners were notified of opportunity to be present at the hearing but chose not to attend; however, staff did meet with the owners prior to the hearing and they were able to come to agreement.

Staff recommended the following to the Commission: that the Commission adopt the recommended agreed order, the findings of fact and the conclusions of law and order the following: a demolition permit be secured, the commercial structure located on the property be demolished, and the lot left in a clean and raked condition with 180 days from the date the order is mailed to the owner; the property surrounding the structure remain fenced and secured until the demolition is complete; all portions of the commercial structure be removed; and require the owner or owner's representative request inspection to verify compliance. If compliance is not achieved within 180 days, the Code official may proceed with the demolition; after 180 days, all portions of the commercial structure, including items in the structure and on the property will be considered debris and disposed of as such. A lien for all expenses incurred by the City of Austin will be filed with Travis County Deed Records.

Commissioner Gonzalez made a motion that the Commission adopt the findings of fact and conclusions of law and adopt the proposed agreed order as presented by City staff. Vice Chair Brown seconded. Vote was taken; motion passed.

C. NEW CASES:

- I. 11841 Eubank Drive; Joan H. Vom Eigen
CL # 2014-050221

11841 Eubank Drive is a single-family residential structure, vacant for more than ten years and not homesteaded. The case was presented by Inspectors Chris Maldonado and Michael Dial. The property has been before the Commission in March 2007, when the Commission issued an order for repair. The property did not come into compliance until 2011, thus the

penalties owed to the City are in the amount of \$56,471.43, which collection is being actively pursued for that amount.

The City of Austin Code Compliance Department found that this property is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 Austin City Code and is therefore a public nuisance with substandard conditions.

Staff recommended the following to the Commission: the Commission adopt the Findings of Fact and Conclusion of Law for the property and order the following: any necessary permits to be secured; order repaired within 30 days from the date the order is mailed to the owner; order all repairs or modifications to meet or exceed the requirements of all applicable codes; order the owner or owners to request inspection to verify compliance; and after 30 days a penalty of \$500 a week shall be assessed until work is completed with final inspections passed; and admit Exhibit 1 and photographs marked 2A through 3H. Commission members questioned the staff on options for the property.

Mary Rudick, coach for Gracy Woods Neighborhood Watch, thanked the Commission for their efforts at cleaning up neighborhoods. She stated that the Eubank property is in a location where children have to walk by going to school, and since there is furniture inside and it is boarded up, it is a huge danger for firefighters; she requested that the property be demolished.

Art Riojas, who lives next to the property, said the property has been abandoned and not maintained since at least 2003. He said shrubs, vines and weeds have overtaken the house and adjoining properties, and the overall condition of this property has devalued his property and others', and he requested that the structure be demolished.

Libby Weed, who lives on Eubank Drive and is principal of Brentwood Christian School, stated that it is unacceptable to have an abandoned residence, completely uncared for, next to a school and playground where children play daily, and asked what will it take for the City to take action on this property.

Roger McAllen, senior minister for Brentwood Oaks Church, has written to the owner numerous times offering assistance on the property, but has received no response, and asked that the Building and Standards Commission take action on the property besides penalties and fines that won't be paid timely.

Janet Faulk, president of the neighborhood association, stated several neighbors have approached Ms. Vom Eigen to buy the property, and she refuses to respond. Madam Chair Beebe closed the public hearing and opened the floor for discussion; further discussion followed on the options for the property. Commissioner Cloutman made a motion to follow the recommended order, but change from \$500 a week to recommend demolition and pursuing receivership of the vacant lot for affordable housing. There was no second; no vote was taken. There was discussion with staff about the Commission's jurisdiction.

Motion was made by Commissioner Gonzalez to adopt the findings of fact and conclusions of law presented by staff and to amend the order to change the penalty from \$500 per week to \$1,000 per day and to add a suggestion that the City move forward through district court with

a Chapter 54 lawsuit on receivership. Vote was taken; motion failed.

After further discussion with staff about options for the property, Madam Chair Beebe suggested that the case be placed in abeyance for 30 days. Motion was made by Commissioner Kaplowitz to adopt the findings of fact and conclusions of law but change the recommended order that after 30 days a demolition permit be ordered. Vice Chair Brown seconded. Commissioner Cloutman offered an amendment of \$1,000 per day fine. Madam Chair Beebe called for discussion on the motion. Vote was taken; motion failed.

Madam Chair Beebe made a motion to place the case in abeyance for 30 days. After discussion on the motion, Vice Chair Brown offered an amendment that the property be maintained during the 30-day period; Madam Chair Beebe accepted the amendment. After further discussion on the motion, Vice Chair Brown asked Madam Chair Beebe to withdraw her motion; Madam Chair Beebe agreed to withdraw the motion.

Commissioner Hill made a motion to accept staff's findings of facts and conclusions of law, and that the order be that the property be maintained and secured over the next 30 days and that the staff come back to the Commission with further information on receivership and the case will be revisited. Madam Chair Beebe seconded. Discussion on the motion followed. Vote was taken; motion passed.

5. BRIEFING, DISCUSSION, AND POSSIBLE ACTION

- A. Staff's assessment of Stuart Hersh's proposals concerning the composition of the Building and Standards Commission, annual permits and amnesty certificates of occupancy.

Director Smart reported that Assistant Director Don Birkner has done some research and review of the amendment request. Staff has met with one of the sponsors and will meet further with the sponsors of the resolution. Staff's recommendation, in agreement with the Commission's recommendation, is that there is not enough volume at this time to justify having two panels, and offered options to start Commission meetings earlier or meet more than once a month. The Council appointed a special committee to look at boards and commissions, and at this time that committee recommends no change in the Commission; however, after the composition of the Council changes, the composition of the Commission may change as well.

Director Smart reported that on the amendments concerning annual permits and amnesty certificates of occupancy he has had discussions with Mr. Guernsey, and stated that these items are more in Mr. Guernsey's jurisdiction. Staff feels these are outside the purview of Code Compliance and to a certain extent outside the purview of the BSC Commission. Staff has worked with PDR and developed standard operating procedures for emergency permits and expedited permits for BSC cases. The annual permits and amnesty certificates of occupancy will remain with PDR to be brought back for further discussion later.

Madam Chair Beebe asked for an explanation of why Mr. Guernsey and his staff are opposed to the annual permit and the amnesty certificate. Assistant Director Birkner responded that the former building official and the former deputy building official of PDR were generally opposed to special permit processes. PDR has put together an RFP to look for process improvement for all of PDR processes. Code Compliance staff will be participants in the process improvement discussion and Director Smart will be on the panel to select the assistant director and building official for PDR.

After further discussion; no action was taken.

Stuart Hersh commented on the City Council's October 3 resolution to expand the size of the Commission and a code amendment for an expedited permit and commented that all he has asked for is public hearings with proper notices on proposed amendments so that the City Council could eventually act. He stated that if the Commission is not prepared to act, then he will go back to the City Council. Madam Chair Beebe responded that the Commission has not been instructed to make changes, but feels the Commission is responding to the communication the Commission has gotten. She further suggested that if Mr. Hersh feels like he needs to take it back to the Council, perhaps that's where it should go, and stated that she doesn't believe there's anything additional the Commission can do.

After further discussion, Commissioner Cloutman made a motion that the Building and Standards Commission recommend to Council that Planning and Development Review create an expedited permit process for life safety repairs by single-family and multifamily property owners. There was no second and no vote taken.

Ms. Link advised the Commissioners that they're posted to take possible action on Mr. Hersh's recommendations. There was further discussion; no action was taken.

B. Staff's proposed changes to Commission Rules & Regulations

Patricia Link presented highlights on proposed changes to Commission Rules and Regulations: updates language from "building official" to "code official;" takes out language that's inconsistent with by-laws with "the liaison" versus "the secretary;" removing the membership and officer information, records, meetings, and rennumbers. She explained that it is really now about the Commission's procedures, and advised that staff can post for the next meeting to vote on changes to the rules and regulations.

After questions were addressed, Commissioner Hill made a motion that the Commission accept the proposed changes to the Commission Rules and Regulations. Vice Chair Brown seconded. Vote was taken; motion passed unanimously.

C. Budget Item: Budget Forecast for Fiscal Year 2015.

Director Smart presented the budget forecast for Fiscal Year 2015. He commented that Code Compliance staff is not asking for growth, just to maintain. Director Sharp then went through the financial forecast in detail and then recognized Budget staff. Madam Chair Beebe thanked Director Smart for the update; no action was taken.

6. FUTURE AGENDA ITEMS

- a. Returning cases will be placed on future agenda.

ADJOURNMENT

With motion made by Commissioner Kaplowitz and with no objections, the Commission meeting was adjourned by the Chair at 9:50 p.m.