



MINUTES
Committee on Public Safety
Thursday, February 7, 2019 @ 3:30 p.m.
City Council Conference Room, 10th Floor

CALL TO ORDER

The meeting was called to order at 3:30 p.m.

ROLL CALL

Council Member Carol Wood, Chair
Council Member Patricia Spitzley, Vice Chair- excused
Council Member Adam Hussain, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Scott Sanford, Code Enforcement
Council Member Garza
Elaine Womboldt
Kathy Miles
John Miles
Joseph Abood, Chief Deputy City Attorney
Greg Venker, Assistant City Attorney

MINUTES

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM DECEMBER 19, 2018. MOTION CARRIED 2-0.

Public Comment

No public comment at this time.

DISCUSSION/ACTION

ORDINANCE – Fire Code Amendment; Chapter 39 of the 2018 International Fire Code
It was confirmed the hearing will be held February 11, 2019 and the Council will take action the same night.

Chief Deputy City Attorney left the meeting at 3:31 p.m.

Ms. Miles encouraged by passage of the amendment because of her concern with facilities in residential areas.

Ms. Womboldt asked if the LFD will check on all dispensaries. Council Member Wood clarified for Ms. Womboldt that this Chapter deals with the processing and extraction facilities. Ms. Womboldt then filed a complaint on odors.

Council Member Wood suggested inviting the Fire Marshall to a future meeting to inform this Committee on their process in inspecting “scrubbers” at the grow facilities to reduce odor.

Council Member Garza filed a complaint on odor at the intersection of Jolly and Pennsylvania. Council Member Wood informed him of the process to file a complaint on odors in residential areas with the City Attorney office.

Chief Deputy City Attorney returned at 3:35 p.m.

Mr. Sanford was not aware of enforcement in his office on odor complaints

Council Member Wood asked for Mr. Smiertka to attend the February 21, 2019 meeting to provide an update on the Committee that meets on medical marihuana to speak on what their process is for enforcement of the odors.

Council Member Hussain asked if smoking on private property was still a public nuisance. Mr. Abood stated that under the MMMA, if they have a card they are immune from prosecution. Council Member Wood pointed out the City has an ordinance on odor and if it crosses property lines it is a nuisance. Mr. Abood reiterated that if they have their card they are exempt under the MMMA, as for the new recreational laws, he was not aware if they would have those immunities. In regards to the City ordinance on nuisance, they could attempt to enforce but he could not confirm a judge would uphold it. Council Member Wood encouraged them to move forward on all complaints until they have something that says they cannot. Mr. Abood stated he would review the law on any enforcement action.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE ORDINANCE FOR THE FIRE CODE AMENDMENTS ADOPTING CHAPTER 39 OF THE 2018 INTERNATIONAL FIRE CODE. MOTION CARRIED 2-0.

RESOLUTION – Make Safe or Demolish; 2500 West Jolly Road; 33-01-01-31-476-211

Mr. Sanford recapped the details on the home, asked for 60 days to demolish, and Council confirmed the show cause hearing was held on January 14, 2019.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION FOR THE MAKE SAFE OR DEMOLISH FOR 2500 WEST JOLLY ROAD. MOTION CARRIED 2-0.

RESOLUTION – Make Safe or Demolish; 1414 Ballard Street; 33-01-01-10-157-001

Mr. Sanford recapped the details on the home, asked for 60 days to demolish, and Council confirmed the show cause hearing was held on January 14, 2019

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION FOR THE MAKE SAFE OR DEMOISH AT 1414 BALLARD STREET. MOTION CARRIED 2-0.

RESOLUTION – Introduction and Set Public Hearing; Ordinance to Adopt the 2015 International Property Maintenance Code

Council Member Wood asked for an update on the review of the one outstanding question, “If Section 108.2 should be removed” since Code compliance in the past at this meeting and General Service Committee stated that they do not call the owners to provide them time to board it up before the City pays someone to do so. Therefore in 2018 this Committee wanted that section removed. Mr. Abood stated it is not customary to code. Council Member Wood pointed out that in the past Mr. Sanford at Committee on General Service’s meetings states that they do not contact the owner and provide them time to come to the property to board it up because it takes up too much time and they have to have all people involved sit and wait.

If this Section is left in the ordinance, if an owner gets fined for the board up and appeals it at general services they could state the ordinance say the City has to notify them before they board it up, and therefore if Code is not notifying them and waiting on site for them before they board it up, the Section should be removed from the Ordinance. Council Member Hussain asked Law if landlords use that as an excuse to appeal the fees, what does Council do. Mr. Venker could not provide an answer. Council Member Hussain specifically asked Law if it can be removed. Mr. Abood answered that notice provisions are important under the law, but would look to see if it would be a violation of due process rights if taking notice out.

Council Member Wood read Section 108.2 “the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner’s authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement....” She then asked Mr. Sanford if “calling the owner” is covered under the practice of just posting a placard. Mr. Sanford informed the Committee that if it is during the day and they know they owner they do place a call, but if not they feel their policy is covered by the ordinance. Council Member Hussain referenced the code stating his interpretation that the structure must remain open until the owner is called. Council Member Wood added that this would be the question, is it “must” or “may”. Mr. Abood stated that their opinion is that what code is doing currently is in compliance with 108.2 already. Council Member Hussain noted that if Law is comfortable to defend it in court and the Committee in General Services he would agree. Mr. Abood stated that he has never seen the City taken to court over this, and he does not see anything Code is doing that is a violation with this.

Ms. Miles and Ms. Womboldt spoke in support of a pro-active law.

Council Member Hussain noted his thought the issue was “closed up in the time required”. Council Member Wood asked, if after it is placard, if the owners shows up before the contractor if they can board it up and Mr. Sanford confirmed.

Mr. Venker noted that Section 108.2 is contemplating something is not an imminent danger. It does not require affirmative contact by the City to the owners, and the placard is the notification.

Mr. Abood stated he did not believe this Section 108.2 had any conflicts with Code and asked that the statement from the December 19, 2018 minutes on page 2, under this topic, 5th sentence be deleted: “even though it conflicts with the practice followed by Code”.

Council Member Hussain asked for an example of when a structure is open and not an imminent danger, with his understanding that the policy was if it was open and accessible it was imminent danger. Mr. Sanford stated if a house is open and accessible they board it up under the nuisance clause. And imminent danger would be if the house was open and there was not flooring just openings straight to the basement; that would be an imminent hazard and boarded immediately. Mr. Abood assured the Committee that Law works with Code Enforcement and believes Code has been complying with the ordinance and International Property Maintenance Code. Council Member Wood noted she was not saying that Code was not complying, the question was if Section 108.2 conflicted with their Department policy. She added that in the past, Mr. Sanford stated during past meetings it conflicted with their policies but now it appears it does not conflict. Mr. Sanford admitted that when reading the 2015 Code he saw a change and that the section was new, but since that time realized it was in the current 2009 they use and has always been there so it is not a conflict.

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE RESOLUTION TO INTRODUCE AND SET THE PUBLIC HEARING FOR FEBRUARY 25, 2019 FOR THE ORDINANCE TO ADOPT THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE. MOTION CARRIED 2-0.

Council Member Wood stated that the Committee of the Whole will have a presentation on these changes at the February 11, 2019 meeting.

MOTION BY COUNCIL MEMBER HUSSAIN TO AMEND THE DECEMBER 19, 2018 MINUTES BASED ON MR. ABOOD'S STATEMENTS EARLIER. MOTION CARRIED.

OTHER

Council Member Garza provided an update on 3801 Walton, noting the security doors have been installed, a tenant has been evicted and the owner is waiting on cameras. The owner did not provide a signed letter but a punch list. Council Member Wood wanted a letter laying out what was supposed to happen and signed by the owner and the City Attorney. Council Member Garza added he is also waiting on a walk through with Steve Swan the Building Official. Council Member Wood asked Council Member Garza to provide an update at the next meeting.

Council Member Hussain asked to discuss the City leash ordinance and the Ingham County Animal control. A conference call was placed to Ms. Helen Hansens who provided details on her attack by pit bulls on January 25, 2019 at 8:29 p.m., her communication with 911, and the timing on meetings with the LPD throughout that weekend. Ms. Hansens also noted she spoke to animal control on January 26th but they were not able to address the animals and then they were closed January 28, 2019. Council Member Wood informed her there is a City leash law and the LPD should have informed her of that, but as the victim she can file the petition as the witness to the animals being off the leash, and the owners can get ticketed for \$500. Regarding menacing dogs in neighborhood, the Ingham County Animal Control can file a petition with the courts to have the animal taken away. Mr. Abood informed Ms. Hansens that 911 dispatch directs animal issues to Ingham County Animal Control, and therefore LPD might not have even been made aware of the issue. Ms. Hansens confirmed all the officers she spoke to pulled up the dispatch report. Mr. Abood informed Ms. Hansens that she does have civil recourse, can obtain an attorney and sue for monetary and other remedies against the property owners, because it is the strict liability of the animal's owner. Ms. Hansens stated LPD did make contact with the dog's owners and will submit to the prosecutor's office. Council Member Wood stated she had heard that other neighbors felt unsafe also and asked Ms. Hansens to obtain statements from them as well for the prosecutor. Ms. Hansens confirmed those neighbors had already made statements to Animal Control as well. Council Member Wood concluded the call by informing Ms. Hansens she would check on the status of the case and call her back. Council Member Garza added that he would reach out to the Ingham County Commissioner in that area to address with Animal Control, but Ms. Hansens stated she would rather he not, she wanted to wait for the process to go through first. Council Member Hussain suggested bringing in 911 Dispatch and Mr. Abood suggested that would be a good idea for the Intergovernmental Relations Committee.

Ms. Womboldt asked for action to be taken.

Council Member Wood stated again that before the next meeting she would follow up with Ms. Hansens on the status, ask the LPD Chief on their policy in training the officers on the leash law, what is handled at dispatch, hoping he would pull up the dispatch call and hear it.

Mr. Miles inquired into the potential of a resident shooting the animal if they were being attacked. Mr. Abood told him they cannot discharge their gun in the City limits.

ADJOURN

Adjourned at 4:38 p.m.

Submitted by Sherrie Boak,

Recording Secretary

Lansing City Council

Approved as presented: February 21, 2019