



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes City Council

Thursday, June 11, 2015

6:00 PM

Municipal Center

Public Hearing

1. CALL TO ORDER BY MAYOR PERRIN AT 6:00 P.M.

2. NEW BUSINESS

Mayor Perrin thanked Mr. John Hardin for making copies of the code and providing the copies to people in attendance. He also apologized for any misstatements he may have made concerning the code in reference to multi-family. What he meant to say was the ordinance that is being proposed at this time deals with multi-family. But, there is a proposed amendment that would make the code applicable to everything. He then thanked Mr. Dan Passmore and the committee he served on in the past for his hard work with the property maintenance code.

Mayor Perrin noted his administration values the realtors, homebuilders and construction companies and they are a big part of the economy base of Jonesboro. He stated they will do whatever they can to assist those markets in whatever way they can.

Mayor Perrin then informed the City Council that he will have to leave the hearing early in order to attend his grandson's GED graduation. He then turned the meeting over to the President Pro Tempore Chris Moore.

COM-15:039

Presentation given by Director of Communications Fritz Gisler regarding the 2012 International Property Maintenance Code

Sponsors: Mayor's Office

Attachments: [Presentation](#)

Mr. Gisler stated Councilman Vance will be presenting an amendment to the proposed ordinance at the City Council meeting on Tuesday, June 16th, that will remove the restriction of multi-family. Councilman Vance clarified his proposed amendment will make the ordinance applicable to everyone, not just multi-family.

He noted the planned implementation date is November 1st. He added at any time the City Council can change the timeline.

He explained the property maintenance code will be complaint driven and prioritized by the immediate impact on health/safety, severity, the impact on the community and the length of time the complaint has been open. He then discussed how the complaints will be handled and addressed questions that have been asked about the code.

He further explained the reason the city is looking at implementing the property maintenance code is because the code compliance officers can't do anything other

than condemn a piece of property. They would like to have other tools so condemnation isn't the only solution. The property maintenance code will help the residents of the city and help promote the health, safety and welfare of the community.

This item was Filed.

Discussion concerning the property maintenance code

Councilman Moore stated he has been asked numerous questions concerning the code. He explained the code will apply to all structures within the city, there will not be a fee levied to fund the cost of enforcing the code, the inside of the structure is just as important as the outside which is why the code applies to exterior as well as interior and there are no intentions for code enforcement to enter a citizens' home without permission by the property owner except.

Lt. Todd Nelson from the Quality of Life Department explained right of entry gives the city the right to be on a piece of property, but they have to have a reason to be there. If the property owner denies access, the city has to leave unless a judge gives them permission to be there. After a question by a citizen, Lt. Nelson explained if they are in the house legally and observe something that is a danger to the health, safety and welfare of the residents then other codes may apply. He noted the property maintenance code will be enforced by a code enforcement officer, not a certified police officer.

Lt. Nelson also stated, in response to another question, that the property maintenance code does not give them the authority to make property owners update their homes completely; rather, the code allows them to make sure the home is safe but does not have to necessarily be up to date with current building codes.

Councilman Moore explained he has also been asked about the specific procedures for enforcing violations of the code. If a code violation is found, the property home owner will be notified in writing, given the exact reason for the violation and be given a reasonable amount of time to make repairs and improvements to bring the structure up to compliance. They will also be given the procedure for appeals, if the citizen wishes to appeal the violation.

Councilman Dover asked how the city came to the conclusion to use the 2012 International Property Maintenance Code even though there was a change in chief building officials last year after recommendations concerning property maintenance were made by the Moratorium Committee. Councilman Moore stated he thinks the Mayor made the recommendation not to reinvent the wheel, to go with a document that was already part of the current code. Councilman Vance added the code was a recommendation of the Moratorium Committee to the Mayor. The Moratorium Committee recommended the administration come up with a plan to solve the issue of maintenance and the committee recommended the International Property Maintenance Code. He added that's why the original ordinance referred to only three units and above because the committee recommended the code for multi-family housing. But, after questions were raised from the people in the community and some Council members then it was decided to expand the ordinance to cover all structures. Councilman Burton clarified the Moratorium Committee minutes said the 2012 International Property Maintenance Code would be a base and used as a starting point to build a property maintenance code off of. Councilman Moore stated the code as made by the previous chief building official was comprised of only sections of the 2012 International Property Maintenance Code, whereas now the Council is considering adopting the full code.

Councilman Dover asked if the previously proposed code was portions of this proposed code, then why would there be legal challenges. City Attorney Carol Duncan stated she thinks the previously proposed code with just sections of the property maintenance code would stand up in court. She noted she wasn't involved in the committee, but stated possible problems could come up if they took portions of this code, then put in portions of another code.

Councilman Street clarified that if an older home does not meet current standards, the property owners won't be forced to bring the home up to current codes. Councilman Moore stated that is correct. He explained the code doesn't reference what type of material has to be used; rather, they just have to work. But, the appeals committee would have the right to determine what needs to be done. Councilman Vance agreed, adding if something is changed, then it has to be brought up to code. But, if something is just being replaced it doesn't have to be up to code.

Chris Hyman, 701 Airport Road, asked if a tenant makes a false claim and allows code enforcement on to the property, then code enforcement sees violations, if the property owner would have to fix the problems. City Attorney Duncan stated if code enforcement enters the property legally, under the permission of the tenant, and code violations are in plain sight then the property owner can be written up for the violations. She noted they can't go searching for violations; rather, the violations have to be in plain sight and seen as they are investigating the claim. Mr. Hyman noted in Section 604.2 of the property maintenance code it says "dwelling unites shall be served by a three-wire". He asked if code enforcement gains access to the home because of a false claim and see that the wiring isn't three-wire, then could the property owner be written up for a code violation and made to be brought up to compliance. City Attorney Duncan answered it would have to be a safety concern. Councilman Moore clarified the particular section Mr. Hyman referred to indicates the utility service has to provide service through three-wire, but it doesn't mean the house has to have three-wire in it.

Jeb Spencer, 615 W. Matthews, asked how many code enforcement officers there are now that answer complaints. Lt. Nelson answered five officers with approximately 600 complaints answered in May. Mr. Spencer stated he doesn't think the city has the time or the desire to go into people's houses. He added ideally, by the time the city has the opportunity to knock on someone's door that the landlord has had several phone calls. He noted he doesn't see the city going into the home unless there's a real problem.

Harold Carter, 902 Tony Drive, expressed concern about property owners being under the property code version of OSHA. He stated he doesn't think homeowners are going to like the being under this code because you never know where it's going to end up. He noted the Supreme Court has ruled that city officials can get a warrant to go into someone's home. He also stated tenants will have a list of excuses they can use that may be false just to get code enforcement in the house to possibly find other violations. Mr. Carter then asked if code enforcement officers are going to have the proper training and background to say whether or not something is a safety violation. He explained he doesn't think the city will want to spend the money to hire experts.

Robert Rees, 1718 Chickasaw, stated earlier this week his property manager in Little Rock contacted him because Little Rock code enforcement had questions about the property. Little Rock uses the property maintenance code. Mr. Rees discussed problems he had with code enforcement in Little Rock due to the property maintenance code. He noted the previous committee that looked at the 2012 International Property Maintenance Code had decided that the code was too

restrictive and started putting together portions of the code that would be applicable to Jonesboro. Lt. Nelson, who also served on the committee agreed that the committee started on the premise that it was too restrictive. Mr. Rees stated while he was on the committee he voted against the code because there are already too many regulations. He then expressed concern about the city having the personnel to enforce the code. He explained if the violation is due to an unsafe roof, then it will be up to the resident to hire an engineer to say the roof isn't unsafe. The city won't bear the financial burden; rather, it will cost the citizen.

Mary Ransone, 1224 W. Matthews, stated the city has no restrictions now and some neighborhoods are horrible and unsafe. Kids are walking by vacate, dilapidated and unsafe homes. She referred to a home that was recently condemned by the city due to it burning down in a fire a few years ago. She noted the property owner of that house was still claiming the Homestead Tax Credit. She stated the city needs to do something. She added she respects the people who maintain their homes, but it's the people who don't maintain their homes that are the problem.

Bob Warner, 1003 W. Washington, discussed his home. He stated the code matters for the whole city. He stated he would sleep in any house that he owns and is part of the Landlord Association. He questioned why good landlords would oppose this code and want bad landlords to compete with them. He added the code will help the city stand up to slum lords and banks that won't put money into fixing up foreclosed homes. He explained they should adopt the standard template because it will work. He further explained he recognizes the fear of the city coming into your home, but this has to do with safety.

Sherry Horton, 1410 S. Madison, explained she is concerned about it being an infringement on property owner's rights. She stated she pays her mortgage every month and doesn't want someone to tell her how she should keep up her home. She questioned whether the city has the right to force her to paint her home if code enforcement sees paint chipping on her home. Councilman Moore answered yes. She expressed concern about homeowners who can't afford to fix the issues that are deemed violations of the property maintenance code.

Mr. Spencer addressed the Council again. He explained he has rental property and is on the West End Association Board. He stated property rights are fundamental to our country, but if you have a right to property you have a right to the value of your property. He further explained no one is immune to what is going on and he thinks that's why so many people are supporting this issue.

Teresa Beck, 16 Plantation Oaks, stated she doesn't understand people who don't take care of their property. She discussed a home near hers that has issues that need to be fixed. She further stated it's a travesty that people would allow that to happen to their homes and that she would be happy to report them after this code is approved because it's dangerous for kids to live in.

Darrel Cook stated he is an investor and property owner with nothing to hide. He explained he is totally against the code. There have been valid points brought up by both sides. He expressed concern about the code doing more damage than good. He stated he has a tenant living in a home he recently fixed up, but he will not be raising his rent. But, he has another tenant that hid cats in their home that is now costing him \$6,000 to get the smell out. The property maintenance code will not help with those issues. Mr. Cook stated not everyone in Jonesboro can afford to make their house pretty, but landlords who are forced to make improvements will eventually have to pass the cost down to the tenants by raising their rent. He questioned where people will go when they can't afford higher rent caused by the property maintenance code.

He stated is in support of parts of the code. He noted part of the code says if the house is under notice then it can't be refinanced. He questioned what will happen to the residents who need to refinance their homes in order to pay for the improvements needed.

Judy Casteel, 1902 Independence Cove, discussed the property maintenance code. She noted she is the president of the Scenic Hills Neighborhood Association. She explained there is a house not far from her own home that is falling down, which is why she is in support of this code. She noted the house isn't ready for condemnation, but it's getting close. They have tried to find ways to get the home fixed, but the city doesn't have any codes to help. She stated homes being kept in good condition will help the city economically. The property maintenance code is used in 46 states, so the code is highly regarded and is a common sense approach.

Renee Aspinwall, 628 W. Matthews, stated she thinks homes that are in bad condition are safety hazards and promote crime. She discussed a past experience with homes near her house that weren't kept up. The landlords didn't care about the problems the neighborhood had with the residents of those homes, but someone built nice apartments on that property since. She stated it's easy for people to say they're against it when they don't have to live around it.

Jim Wells, a Jonesboro resident, explained his understanding was that the property maintenance code has been adjudicated and that was part of the reason the code was chosen for adoption by Jonesboro. He asked why it's better this code as opposed to one that is put together by the citizens of the city. City Attorney Duncan stated that this code has been adjudicated and has been found to be constitutional by the court system, so the city doesn't have to re-invent the wheel if there's an issue taken to court. Anyone can challenge anything, but the question will be if the city will win the case. She explained judges will look at other cities and will use that information to make their decision. She further explained if a code hasn't been adjudicated then it could take longer to decide whether it's valid due to more levels of appeal. She added the community doesn't decide what is constitutional; rather, a judge will decide that.

Mary Ellen Warner, 1003 W. Washington Avenue, provided the Council with a resolution of support from the West End Neighborhood Association.

Ray Hackworth, 1606 Whitehaven Court, referred to comments made earlier about change to the code not having to be brought back before the Council for adoption. He stated he thought changes to codes had to be approved by Council. Councilman Moore answered no, the code will be automatically updated and will not have to be taken to Council every time. Mr. Hackworth asked how the citizens will know when the changes take place. Councilman Moore stated when a new edition of the code is published it will be automatically adopted for the city.

Dan Pasmore, Highway 351, stated he was on the exterior code committee and the Moratorium Committee. He is also the president of the Northeast Arkansas Landlord's Association and Fairview Neighborhood Association. He explained they went through this code and looked at the exterior part only. They took things out that they thought were overbearing and watered it down in order to help city officials and the citizens. They were comfortable with their results and thought they had come up with something everybody they could live with. They did not look at the interior portion of the code. He noted they did not put code into it; rather, they just took portions out of it. Mr. Pasmore further explained he thinks this code is overbearing. The exterior code their committee proposed would handle 99% of the problems that everyone has around town. He stated he thinks the city needs to put this off for a month so

everyone can read the material. He added he is not opposed to some sort of an exterior code, as long as it's not too overbearing. Mr. Pasmore stated he has spoken with the Little Rock Landlord's Association and found they adopted parts of the book, but not the whole thing. He noted there shouldn't be any legal issues since the portions the committee recommended were taken out of the book. City Attorney Duncan asked if Mr. Pasmore would send her the results of the exterior maintenance code committee because she has not been given that information.

Councilman Dover clarified that the consensus of the committee was to take portions of the 2012 International Property Maintenance Code and make it unique to Jonesboro. He questioned what happened with that document because he doesn't think the Council was ever provided with it. Mr. Pasmore stated his understanding that it was ready to go to the Public Safety Committee, except some of the fines and enforcement issues had to be worked out before it was going to be presented to the committee. Councilman Dover asked how it went from being portions of the property maintenance code to being the whole document. Lt. Nelson explained the committee didn't think they should consider the whole book because the property maintenance code had been denied in the past. So, they focused on the exterior portion of the book. They took out portions that the city already has ordinances for, as well as a few other minor things. They focused on the definitions and Chapter 3. He worked with former City Building Official Terry Adams on the administration portion of the code, but was not finished when Mr. Adams left employment with the city. After current Chief Building Official Tim Renshaw was appointed, it was decided to go with the whole book. Councilman Moore stated the property maintenance code is part of the current Building Code. As the Building Code is updated, the property maintenance code will also be updated.

Discussion was then held as to why it's called an international code even though it's just applicable to the United States.

Councilman Frierson added it was his understanding that the exterior property code committee was going to meet again to finalize the document and that never happened. Councilman Dover suggested having the committee finish with their document, then compare it to what is being proposed now. Councilman Vance stated the 2012 International Property Maintenance Code was recommended by the Moratorium Committee. Councilman Dover reiterated that he thinks the exterior maintenance code should finish their work before moving forward with a recommended code. He explained just because a city employee left doesn't mean the committee should've been disbanded. Councilman Moore referred to the recommendations from the Moratorium Committee that stated they recommend adopting a property maintenance code with the specifics being handled by the appropriate Council committee or department with portions being excerpted from the International Property Maintenance Code. Mr. Pasmore noted that was just a recommendation and doesn't have to be followed through with.

LeeLee Van-Winkle Gisler, 207 S. Church A, stated her husband is a city official and she does not want her views to reflect badly on him. She is a tenant and has recourse to take her landlord to court if needed. She stated CDBG money is available to help poor people with repairs to their homes, as well as other avenues that may be looked at. She explained when there's no process or a way for citizens to get the things they need from their government then there's a problem. She asked the Council to read the code and think about all the comments made tonight because there should be something other than nothing and condemnation.

Calvin Harrell, a Jonesboro resident, asked which building code is in effect at this time. Councilman Moore stated the official version of the Building Code is 2012. Mr.

Harrell asked when the 2015 code will start being enforced. Councilman Moore answered when the code committee finishes the code and it is adopted. Councilman Vance clarified the city won't get anything until the state has finished working with it. He noted the current building code is the Arkansas version of the International Building Code. The state fire marshal will have to look at the building code and make amendments to it.

Mr. Harrell then asked if Arkansas has a warranty of habitability. City Attorney Duncan answered there is a warranty of habitability to a degree, but it's not very effective in Arkansas. Mr. Harrell stated there isn't a warranty of habitability. But, this code is a warranty of habitability and creates a burden on landlords and has potential to harass property owners and landlords. The Attorney General's opinion concerning warranty of habitability and property maintenance codes is that if a code is self-imposed then it will be in effect, but there is no obligation to impose a code.

Mr. Harris expressed concern about right of entry. He stated right of entry can be abused. He added it is an issue, but he doesn't think most people understand that. Taking away constitutional property rights is not a tool he is willing to provide the city as a way to enforce the code. He added not everyone can afford to make repair to their homes and they shouldn't wait for the city to find a way to help them.

Roger Watkins, 2701 Glenwood, stated he wants a better, cleaner Jonesboro, but he doesn't like the right of entry in the code. He explained he believes the current Council members when they say the code will be complaint driven. But, there may be a future Council that will allow city officials to knock on the door and come in without a complaint. He also stated the code doesn't say that it is complaint driver; rather, it says when the city has reasonable cause they can enter a structure.

John Hardin, 1010 Country Manor Circle, stated he is a proud citizen of Jonesboro. He is also the president-elect of the Landlord's Association. He explained over 99% of the problems could be solved with an exterior maintenance code. He noted people who have spoken at the meeting haven't complained about the interior of people's homes. Instead, they are complaining about the exterior of the homes. He agrees that there are dangerous properties in the city and there are landlord's who are bad as well. He doesn't want unsafe properties around him either. He recommended the city start with just the exterior portions of the International Property Maintenance Code and not adopt it by reference. He also recommended there should be a landlord and building inspector on the appeals board for the property maintenance code to provide expertise. He commended the Council for making the code applicable to more than just multi-family.

Marie Willis asked if a piece of property is in violation then a sticker is placed on the property. But, if a home is under foreclosure and the sticker is taken off and the property is to be sold or leased, how the realtors will know if there are violations that will be transferred to a new property owner. City Attorney Duncan answered that would be the responsibility of the existing homeowner to inform the realtor and/or new homeowner. If the property owner doesn't inform the new owner, then there could be legal recourse. Ms. Willis stated she understands the process, but doesn't think that will happen. Even now sellers aren't always straightforward about problems with the property. She then clarified that the new owners will be responsible for the repairs. City Attorney Duncan answered yes, the original owners are responsible for informing the new owners, who will then take on the responsibility of making the repairs. She added she doesn't think that the code totally releases the original owner from their responsibilities to the city. Ms. Willis then asked if there is a website where people can check to see if a piece of property has violations against it. City Attorney Duncan answered no, nothing has been set up yet since the code hasn't been adopted yet. But, she added that would be a good idea.

3. ADJOURNMENT

With no further business, the public hearing was adjourned.