

OTTUMWA CITY COUNCIL MINUTES

SPECIAL MEETING NO. 13  
Council Chambers, City Hall

April 27, 2021  
5:30 O'Clock P.M.

The meeting convened at 5:30 P.M.

Present were Council Member Dalbey, Roe, Stevens, Meyers, Berg and Mayor Lazio. Also present were City Admin. Rath, Interim Bldg. & Code Enforcement, P&Z Dir. Simonson, City Attorney representation by Kristine Stone and Olivia Brooks of Ahlers & Cooney, P.C., Bldg. & Code Enforcement Clerk Johnson, Bldg. Inspector Hamann, Inspectors Lipe and Rusch.

Roe moved, seconded by Berg to approve the agenda as presented. All ayes.

Mayor Lazio inquired if anyone from the audience wished to address items on the agenda and referred to have them speak after presentation by Interim Bldg. & Code Enforcement, P&Z Dir. Simonson.

Interim Bldg. & Code Enforcement, P&Z Dir. Simonson presented the following:  
Overview of current process for and related to Nuisances and Code Enforcement; Staff has prepared the attached presentation to guide an open discussion around Code Enforcement. This discussion will look at 4 primary activities: nuisance enforcement, housing code enforcement, new construction permitting and inspection and communication. The discussion around each of these areas will focus on answering the following questions: What is working that we should do more of? And, What is not working that we want to change?

Why Code Enforcement – safety & health, peaceful enjoyment of property, property values and sense of pride, place, neighborhood identity.

Cities are able to exercise police powers for the health, safety and general welfare of the community. Property owners hold their property subject to the City's police power; however, private property shall not be taken for public use without just compensation first being made (IA Const. Art. 1 Sec. 18 & US Const. 5<sup>th</sup> Amend.) and procedural due process is required when the city threatens to deprive a person of a protected liberty or property interest (US Const. 14<sup>th</sup> Amend.). Before a city can declare a property a nuisance and order its abatement in a non-emergency situation, the city should inform the property owner of the city's declaration that a property is a nuisance, inform the owner of what the s/he must do to prevent the city from abating the nuisance at the owner's expense, and provide the owner with a hearing to contest the declaration and abatement order. Meyer v. Jones, 696 NW2d 611, 614 (Iowa, 2005). City's property, building and nuisance codes are minimum standards to promote health, safety and welfare of community.

Our Ottumwa Comprehensive Plan identified property maintenance as a change that would increase quality of life in Ottumwa.

Nuisance Code Inspections: one full-time housing & code enforcement inspector and one seasonal code enforcement inspector; complaint vs. canvass; initial inspection; identify violation; notice of violation. Looking at iWorQ Software improv. so inspectors can print off reports/violations while on site; would like to see more use of the public portal; looking at defining our ordinances so they are more clear with the hearing process clearly defined within the code. Updating Junk Motor Vehicle Code to tighten standard for inoperable/damaged and include st. side yard when defining front yard.

Nuisance Enforcement – cases are open until resolved; attorneys prevail in most citation cases, inspectors treat cases fairly and consistently. Want to clarify extension policy to shorten case durations, involve more stakeholders and set expectations, improve penalty system and take action with habitual offenders.

Housing Code Enforcement – rental inspection prog.– all rental units must be registered and inspected every three yrs.; inspectors identify deficiencies on inspections and provide 30 days to correct. Derelict property program – typically complaint driven; sometimes canvassing or rental inspections produce cases; inspector prepares notice to correct; if not resolved, inspector may placard property as unfit for habitation; property owner must provide and follow a repair plan to cure all deficiencies before placard will be released; unresolved issues may result in condemnation or 657A case.

Rental Inspection Prog.– Int. Property Maint. Code – all inspectors are knowledgeable about rental code and housing code standards and uphold reputation for being fair with landlords and tenants. Would like to get a better handle on notice of change of ownership process; local contact information; increase frequency of inspections for low-performing units.

Sale of placarded properties slows down renovation more than any other cause and is the most common reason for long case durations.

Public education about the code will be a big factor. Public communication includes ongoing meetings and subsequent code and policy updates to generate public attention; calendar for media releases; use of social media; expand involvement for Board of Health and emphasize the Public Portal.

Audience discussion:

Belinda Smith Cicarella – inspectors do a great job; officers are wonderful and our sheriffs are fair and just; two issues are pushing tax payers out of Ottumwa; lure of criminals into our city and increasing property taxes; we feel unjustly burdened; and there's not a way to streamline the laws that are enforceable for landlords; Iowa Code 562A.27A allows landlords to provide a single three days' written notice of termination if specific activity causing clear and present danger (possession of drugs, weapons or threat of assault) is apparent; we try to rent to good people, but we are easily tricked by a smile; we don't know they are bad renters until something happens; Ottumwa City Code 20-8 – tenant responsibilities relating to the maint. and occupancy of premises is another well written code that we would like to see enforced.

David MacKenzie – you have good neighborhoods, but one person can move in and ruin it with how they take care of their property or leave junk in their yard; I made a request to have some potholes filled in and it was done the very next day – make our citizens aware of this option on the City website (report a concern).

Scott Bailey – local landlord rented a property to a young lady (which you all received a copy of this post) asking about squatters rights in IA; how can a minor take over someone's property?

Council discussion:

Stevens: the dept. doesn't have enough help; not sure what the answer is; talked about citations – if these are not pd., can it be assessed to property taxes? Attorney Stone responded it is possible to assess violations/citations to taxes in certain circumstances; it all depends on how the defendant was served.

Attorney Stone also stated that squatters rights is not a legal term; IA is not a self-help eviction state; hard for landlords to kick tenants out; must follow FED process (send preliminary notice, court hearing, ruling

by a judge with sheriffs evicting); police do not have the power to evict anyone from the property; adverse possession can take years to define.

Roe – everyone wants enforcement, but a lot of the same people who complain of the enforcement state we are violating their rights; this is one of the most sensitive topics we have had; we have a poverty issue and aging population in our city; a lot of things we need to take care of.

Attorney Brooks stated that we provide good documentation when presenting us in court; documentation that follows code is what the court looks for.

City Admin. Rath stated we want to help with cost of improvements and have neighborhood initiatives to apply for funding to make repairs to properties.

Dalbey – City Code 20-8 (as Belinda mentioned) spells out responsibilities of the tenant; if we don't have enough manpower to enforce this section, maybe we should look at this more; what I'm hearing is if you go through the routine process, with no action from the tenant, responsibility still falls on the landlord; the changes outlined in your presentation are outstanding; I look forward to seeing these meaningful changes.


City Admin. Rath also stated that for the first time in many yrs., the tax rate did go down; the school dist. helped to reduce and it is a target of ours to cont.; make sure that the recent assessment that is done by the county is understood – some of the jumps in property assessments are because they haven't been assessed in almost two decades. I would also like to thank the staff that is present tonight; our staff has a passion to do a good job and do the right thing and I appreciate them being here.


There being no further business, Berg moved, seconded by Dalbey that the meeting adjourn. All ayes.

Adjournment was at 7:12 P.M.

CITY OF OTTUMWA, IOWA

ATTEST:

  
Christina Reinhard, City Clerk

  
Tom X. Lazio, Mayor