



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
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Date: June 14, 2022

Time: 9:00am

Location: Classroom A; Law Enforcement Center 320 S. Kansas Ave Ste 100
(virtual attendance option also available)

Committee members present: Councilmembers Karen Hiller, Christina Valdivia-Alcalá, Spencer Duncan. Councilmember Neil Dobler was absent.

City staff present: Interim City Manager Bill Cochran, Mike Haugen (Director of Property Maintenance), Amanda Stanley (City Attorney), Mary Feighny (Deputy City Attorney), Monique Glaude (Director of Community Engagement), Hannah Uhrig (Deputy Director Public Works), Alan Stahl (Fire Marshall), Gretchen Spiker (Communications Director), Kelly Trussell (City Prosecutor), LeRoy Younger (City Manager's office), LT Beightel (TPD), Dan Warner (Planning), Stephen Wade (Finance Director), Corrie Wright (Housing Services), Mayor Michael Padilla

1) Call to Order

Committee member Hiller called the meeting to order at 9:00am. Committee members and staff introduced themselves.

2) Approve April 25, 2022 Meeting Minutes

Committee member Duncan made a motion to approve the minutes. Committee member Valdivia-Alcala seconded. Minutes approved 3-0-0. Committee member Dobler was absent.

3) Changing Our Culture of Property Maintenance

Chairwoman Hiller provided background on the Changing Our Culture of Property Maintenance initiative, reminding that it was approved by the Governing Body in December (December 14, 2021) with a unanimous vote of 10-0-0 to approve the recommendations. This is a massive challenge to literally change our culture in property maintenance:

- In the community, primarily hoping everyone will take care of themselves and each other rather than needing the City to intervene at all
- Internally to look at all of the interrelated parts, not only Code Compliance, but also Forestry, Police, Fire, Legal, and others to work together to do the best possible job we can with our policies and the way roll out in procedures.

Committee member Valdivia-Alcalá introduced Karen Black. Ms. Black is the CEO of May8 Consulting, a lecturer at the University of Pennsylvania, a Senior Research

Fellow at the Drexel University Lindy Institute for Urban Innovation, and a Co-Founder of the Healthy Rowhouse Project.

Preliminary Policy & Procedure Recommendations – Presentation by Karen Black, May8 Consulting

Presentation Highlights: [This presentation can be found on the Committee’s webpage at <https://www.topeka.org/citycouncil/public-health-safety-committee> and at the bottom of the approved meeting minutes].

- A study has shown that when one home is repaired, it can reduce crime on the block by 20%. When a home is improved, the health of the people who live in the home and even those who walk by the home is improved. Could raise surrounding property values by up to 30% just by greening a vacant lot. It can also increase tax revenue for a city and school district.
- Other benefits to improving neighborhood blight include: preserving the city’s iconic housing stock, improvements to health, allowing seniors to age in place, creating neighborhood jobs, become a more resilient city, stops abandonment, revitalizes neighborhoods, slows the decline of home ownership, lowers healthcare costs, improves school performance, prevents displacement.
- Ms. Black noted her “deep dive” piece of the equation is reviewing how the City enforces the property code. Topeka decided many decades ago that everyone deserves to live in safe and decent housing. It is in the law, however the law does not mean anything without enforcement.
- The goal of code enforcement is to gain compliance, create community stability and confidence, and to have safer, healthier places to live and work. The goal is also to reduce the least amount of City government intervention.
- There needs to be some differential between those individuals who willfully ignore codes, and those who would like to comply but need some assistance.
- [Slide # 9] Shows the parallel between where home ownership redlining practices that occurred in the 1930’s, and where the city has the most occurrences of deteriorating or vacant homes/buildings currently are.
- Code Enforcement should be efficient. Some practices to keep in mind include educating owners of standards to be met ahead of time, to target owners who willfully neglect properties, keep the focus on health & safety, to coordinate with all government departments, collect & track data regularly and share with the other departments, use courts to hold owners accountable.
- Code Enforcement must also be equitable. It should recognize different types of owners and properties, to involve meaningful community partnerships,

assist vulnerable owners who cannot afford repairs, prevent displacement, and limit use of criminal fines or penalties.

- Topeka is doing many things right
 - Focus is on compliance not punishment
 - Abate quickly and effectively where owner will not act
 - Complete 18,000 inspections, annually
 - Use SeeClickFix for resident complaints and MyGov platforms for tracking cases
 - Have both civil and criminal court enforcement with knowledgeable judges
 - Offer home repair programs for poor owners with violations
- Topeka has about 21,600 properties with code enforcement cases, 100 of these properties have over 15 cases open, and who are chronic violators.
- Property Owners with the most violations (2015-2021) - 15,700 have cases; of which, 28% with the most cases are LLC's and 9 out of 10 owners with the most cases are LLC's. Top 30 owners are responsible for 10% of cases. The term "cases" may mean several different things that are cited on the same day, but this is a situation that would then go on to the municipal court. If the City could get a system that would allow for getting the top 30 owners with the most cases with violations to obey the law, 10% of those Code cases would go away tomorrow.
- Code Enforcement Inspections: It takes about three inspections per case and the City performs 18,000 inspections annually. The average time between complaint and inspection is three calendar days. The average time between complaint and voluntary compliance is 43 days.
- "Voluntary Compliance" - The definition is very broad but includes when the owner corrects the issue or the case is sent to court. Cases are also closed where there is a new owner or inaccurate address. Eighty-three percent of cases are closed for voluntary compliance.
- Types of violations cited in 2015-2021 (excluding properties on the vacant registry) were:
 - 33% - Sanitation; includes having "junk" in the yard
 - 30% - Weeds/overgrown grass
 - 21% - Housing violations, which go to municipal court
 - 10% - Vehicles
 - 3% - Unsafe structures
 - 2% - Condemnations
 - 1% - Graffiti

- Of Code cases that are initiated, 78% are department initiated. The other 22% are initiated by complaints from the public, City Council, or other departments. This is unusual from other cities that Ms. Black has worked with, as it is primarily complaint-based. It is also unusual that 77% of inspections are exterior only. Currently, if tenants are living in unsafe or substandard conditions, they are not complaining at a level that Ms. Black has seen occurring in other cities.
- Abatements between 2015-2021 (violations addressed using public money):
 - City conducted 8,000 abatements, mowing and removal of trash make up majority of these cases.
 - City spent \$2.2M on abatements; \$1.4M (64%) were repaid by owners.
 - About 17% of properties received more than one abatement and are chronic offenders (e.g. owner of 21 properties received 105 sanitation abatements)
- Municipal Court Criminal Enforcement (2015-2021):
 - Once someone is cited and they fail to comply, they are typically sent to Municipal Court.
 - In about 50% of these cases, arraignment for housing violations results in continuance, where the owner may receive up to six 60-day continuances. The premise for this is that the Court is taking the owner at their word that they will fix the issue. Every time the owner is brought back to court, the Inspectors have to go and re-inspect the property to show that the original condition still exists. The process of inspections and re-inspections takes up a large amount of resources.
 - Out of all of the LLC's and individual property owners who went to court between 2015-2021, only 2 have been found guilty, and they were outliers and their cases were outrageous. The question becomes, how can the City use the Courts to gain compliance most effectively to give people a reasonable amount of time to comply, and not just keep the current cycle of Inspectors having to keep proving the conditions exist over and over.
- Administrative Hearing is the civil process, where the Administrative Hearing Judge will hear cases. This Court hears about 90 cases, annually with about 178 hearings, annually. In cases where demolition is ordered, about 63% of the homes are demolished by the City, 27% by the owner, and 9% are rehabilitated. Many times, structures are rehabilitated prior to being court-ordered. There are primarily two types of cases:
 - Unsafe Structures - which make up about 57% of hearings

- Appeals cases of owners who feel their right to due process was violated or that the complaint was not valid.
- Key observances about property maintenance
 - Is a priority for city leaders
 - Cannot quantify challenge due to limited data, however more data could allow the tracking of these challenges in the future if data is shared between departments and built up. Having this data will also help target properties, as well as owners, as well as to give different treatment to different neighborhoods.
 - Enforcement is a slow process that eats up substantial city resources. This makes neighbors feel like the City will not take complaints seriously because it takes too long between the complaint and a resolution.
 - Exterior condition is de facto City priority because tenants are unlikely to complain due to fear of retaliation.
 - Treat all owners the same. Municipal court judge estimates 85% of owners who come before court are too old or too poor to repair violations.
- Preliminary recommendations for discussion
 - Adopt 3 alternative code enforcement paths
 - Financial and medical hardship
 - Standard
 - Large owners/chronic violators
 - Provide protections to venerable tenants living in hazardous conditions; mindset that any shelter is better than no shelter.
 - Shorten enforcement timeframes - fewer continuances and re-inspections; do not have to give extensions to LLC's that are chronic offenders.
 - Use public dollars for abatements strategically.
 - Broadly distribute user-friendly educational materials for owners and tenants.
 - Expand partnerships with county and NGO's.
 - Encourage private investors to reactivate vacant properties.

Over course of next few days, the questions around these round table meetings will be meeting with as many folks as possible to ask

- Do the preliminary challenges, goals and recommendations make sense?
- What do you see as really critical, if the City is going to change its response in a really positive way, to lift the condition of properties?

Chairwoman Hiller noted that Karen Black will be speaking before the Governing Body at the evening meeting, as well as holding a meet and greet and final comment time on June 15th at the Celtic Fox 6:00pm, for anyone who would like to get additional comments or concerns.

Questions/Comments: [Video minute mark 30:35]

Steve Vogel - President of Shawnee County Landlord Association - Spoke to some statistics which he called the "Chuck Kitt memo", and stated those were significantly different from what was included in the presentation. He inquired specifically about if the 28% of complaints were about landlords, but only 5-10% were escalated to point of being moved to court? The information in the Chuck Kitt memo were representative of cases that were sent to the court dockets, and were different. Ms. Black confirmed that the information was from a different time period. The information in the Chuck Kitt memo was from 2017 and was written by a former prosecutor. In addition to the information from this memo, the team was able to pull more current data from MyGov. She cautioned that each piece of data presented difficulties. The problem for this particular piece was that the team had to search through all of the cases looking for LLC, or limited partnership, phrases to find the information; as there is no field that indicates what a professional investor is. The City does not currently have the records to support that information, as the question regarding whether an owner can afford to pay the fine or if they have a financial hardship is not asked of those individuals. The data shown in presentation is what we were able to gather with what was available and is quantitative. The Judges have a lot of qualitative knowledge, however for the purpose of this presentation, Ms. Black sought out data that could be collected.

Mr. Vogel inquired about whether violation was due to tenant or landlord? Ms. Black noted that the responsible party was not something that was available. She would be interested to know how many City resources are used, for the LLC properties, between the time when the owner is notified of the violation and the time it is fixed. And this answer would be different if the tenant is responsible for the issue, or if the owner is responsible. Mr. Vogel stated that something like trash in the yard or keeping the grass mowed would likely indicate the tenant responsibility, whereas peeling paint and failing gutters would fall to the landlord.

Committee member Duncan stated he felt that two things could be true: That the majority of landlords in Topeka are responsible. And that there are a core group of bad actors who are creating a large percentage of problems. As the Committee, and City, parse through, the goal is to recognize the good actors that make up the majority of the cases, and will fix the problems, and to treat them differently than those who the City needs to punish. Mr. Vogel stated that he felt, for the most part, many of the landlords are responsible property owners. Committee member Valdivia-Alcala agreed with Mr. Vogel that most of the landlords are responsible, and that it is unfortunately the actions of a few bad landlords who are causing the problems, and thanked Mr. Vogel for his recognition to not defend the bad landlords. She appreciated the agreed goal of both groups was to have safe and affordable housing in the city, and that is what we are all aspiring and working toward.

City Manager Cochran inquired as to the number of other cities that have and utilize land banks. Ms. Black stated that there are almost 400 cities that have land banks. In that case, they are designed to reactivate vacant properties. A large number of the properties that every land bank has is tax delinquent. The land bank has the power to get it very cheaply or for free, typically, and then offer it to an owner that has the capacity to fix it up, and hopefully and agreement to fix it up, for a specific use such as affordable housing. There are some locations, such as in New York, where even if they are not tax delinquent, the land bank is able to acquire the property and it can be put at tax sale just for code violations. This is far more controversial, however not uncommon in New York. She has seen many cases of land banks that have been run poorly and others that have seen great success that have improved neighborhoods greatly. City Manager Cochran inquired if Ms. Black felt Topeka was a city that could benefit from the use of a land bank program. Ms. Black stated she needed a little more information and time to provide a more rounded answer.

Matt Pivarnik - CEO Greater Topeka Partnership - Referenced a study conducted by an outside consulting group in 2017-2018 which identified the number one thing that Topeka can and should address is to improve aesthetics. He thanked the work of Ms. Black and Staff for gathering and providing the information and Council members Hiller and Valdivia-Alcalá for their work with raising the biased action, and stated he felt that after this process, clear cut action items would be identified and that, if the City is dedicated, and disciplined enough to implement some of these, we can make significant progress. He was surprised to find out

that there is a low percentage of complaints coming from neighbors. He asked if there was a reason Ms. Black had learned as to why this might be. Ms. Black sought to understand that same question better as well. From some of the individuals she had interviewed, Ms. Black stated some have utilized the SeeClickFix app, but were unsure how anonymous it really was. She also heard from non-profits working with tenants who are fearful of retaliation. Comments were also made from neighborhood leaders of neighbors fearing retaliation from other neighbors. She suggested digging into that issue further and providing information about protections that would allow people to feel comfortable with reporting, or allowing Property Maintenance to go into a place. Following up on cases where a tenant complains just before moving out, in order to make house safe for next tenant, needs to improve to provide safety. There will need to be more education to tenants and legal protections for tenants in place, and those will be part of the ongoing conversations that are had.

Chris Palmer - Cornerstone of Topeka - Cautioned that the poor/older individuals who are unable to care for properties and the LLC's with many homes are outliers, and that everything else is in the middle. Mr. Palmer stated that half of the young people who look to purchase properties for cheap and put some money into them, will become the next generation of slum lords. And not because they want to be, but because they get excited at being able to buy it cheap and make an investment...at the end of the day, it is still a 120 year old house that will begin to have major issues that are then too costly to repair and keep up. He also felt there are some instances where the people who are ignoring notices are caught up with busy nature of life and the case sometimes gets away from them. He stated appreciation for the SeeClickFix program and that having the ability to notify proper staff of issues has been proven to work. He suggested enhancing the promotion of utilizing this tool. He thanked Ms. Black for accepting the task of working with Topeka to help improve this process.

Ms. Black reminded that, although she really only explained two of the paths, there were three: financial/medical hardship, standard, and large owners/chronic violators. In addition, she has spoken to every City department that has a role with some piece of property maintenance and neighborhood care, and that all agreed to dialog for helping to improve the processes to help reach the goal of getting more results with fewer City resources, in less time, and to do it in a way that will lift up properties at scale.

Committee member Valdivia-Alcalá stated that this process is not about turning everything over completely, but to better understand the multiple wheels that are turning at the different stages and levels. And that there seemed to be an understanding, from the City, that there are many levels, and that cultural shifts need to happen within neighborhoods, communities, and within the City government. She cautioned that there is an occurrence that can happen between all municipalities, state government, etc. in that each have their own “bubble mentality” when they think of how to solve the problem and that this process has been a thoughtful and intentional approach to help break outside of that bubble to see the bigger picture.

Pat DeLapp - landlord - Suggested equal enforcement across the city. He stated 1600 SW Harrison was former school that City has taken ownership over, and is always in bad shape but has not been written up. He would like to see equal enforcements, not just concentrating on particular areas.

Committee member Duncan noted that a lot of this speaks to exterior enforcement initiatives. He described a scenario of a tenant fearing eviction following a complaint and is someone who cannot afford legal representation, from a landlord who has legal representation and has evicted numerous tenants, and the likeness of the court favoring the landlord evicting the tenant. He is interested in looking at best practices and how the City can help those individuals through that. Ms. Black noted she will be meeting with the legal team directly following this meeting to discuss some of these issues. She stated that other cities offer different protections, however many of them are not under Kansas law. So, the baseline has to be what state law allows, and a tenant has to provide consent for Code to walk in. In other cities, the state can tell a bad landlord that they cannot collect rent and that it will be held in escrow, until the repairs are made. This process gets quick results, and at the end of the process, the tenant is rarely evicted because the landlord has already had to make the changes, and the court is aware of that landlord. It is an ability for that tenant, now, to go back to the court if they are evicted a few weeks later. The question becomes, can we do that here? And that is something that will be explored, as well as a number of other things such as the existing tools such as shifting the abilities of enforcement. At the end of the day, there needs to be a comfortability factor for tenants to trust involving the City, and without that there will be venerable tenants living in dangerous and dilapidated conditions.

Steve Vogel – Referenced a piece that was made a high-priority item within the City’s Housing Study that touched on mandatory interior inspections, with an asterisk that would require a change to state law. He strongly opposed involuntary interior inspections for a number of reasons. One of the main reasons cited, is that he believes it violates the fourth amendment, of a warrantless search. He felt that if the City knocked on tenant doors, and asked if they would be allowed inside to conduct an interior inspection, most would allow them to enter. However, there may also be a significant number who will greet inspectors with violence because they do not want the City’s involvement. He referenced a comment made by Mr. Palmer, that bad tenants and bad landlords often find each other or seek each other out, knowing that they will not be able to find more suitable housing due to lifestyle choices and that they are accepting of the poor conditions. Instead, Mr. Vogel referenced that tenants could contact Housing & Credit Counseling Inc. (HCCI), noting they do a wonderful job of helping tenants understand their rights and of reaching out to landlords who may have received a complaint and letting them know they are violating a law.

Chairwoman Hiller provided final comments, stating that they reflect the candor that everyone has had so far about what the issues are and what the possible solutions might be, and reminded about the public meet and greet event on June 16th.

Other Changing Our Culture Updates

The vegetation ordinance has been amended and will be ready for discussion in the coming months.

Mowing pilot program is in the action steps of developing a low-cost, fixed-rate mowing program to serve as a resource for those with little money to receive help with mowing. The Contract & Procurement staff handled that RFP, and it has since closed. The team will be reviewing that information this week to see if one or more neighborhood-based contractors can be executed by the end of this month. Look for news to come.

Volunteer mowing recruiting will follow once the contracted mowing program piece is ready to begin. The goal will be for publicity and education on both to occur concurrently by the end of June. Additionally, as an action priority, Monique Glaude is working to have a phone number and staff member in place to assist with making referrals and answering questions about the programs.

This is year one of five, with the mowing program being the first of the action priorities to begin this year. She encouraged all residents to come up with a plan, for regular mowing and trimming, for each property for which they are responsible. She also encouraged residents to look around their blocks or their networks to see if there is anyone who needs help, or that they themselves can help. The goal with this action initiative is that the community looks good, feels good, and is taking care of itself without City intervention at all.

4) Other Items

No additional items.

5) Adjourn

Chairwoman Hiller adjourned the meeting at 10:08am.

Meeting video can be viewed at: <https://youtu.be/pw55aNSvkbk>