ADMINISTRATIVE VIOLATION REVIEW BOARD
MEETING MINUTES
January 8, 2019 – 1:00pm
City Hall, Fourth Floor Conference Room

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<tr>
<th>Name</th>
<th>Attendance</th>
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<tr>
<td>Pat Benedict</td>
<td>(44-6)</td>
<td>4/29/22</td>
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<td>Michael Comella</td>
<td>(41-1)</td>
<td>5/27/19</td>
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<td>Becci Goodwin</td>
<td>(36-3)</td>
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<td>Michael Grimm</td>
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MEMBERS ABSENT: None

OTHERS PRESENT: Clint Thompson, Planning and Community Development Director
Bryan Carter, City Attorney
Juston Carr, Property Maintenance Manager
Carol Flury, Recording Secretary

ROLL CALL – Four (4) members were in attendance; quorum present. Grimm - present, Pat Benedict - present, Comella - present, Goodwin - present.

Grimm called the meeting to order.

APPROVAL OF MINUTES
Benedict moved to approve the minutes of December 4, 2018, as written; second by Comella. VOTE: 4 Ayes, 0 Nays. MOTION PASSES.

NEW BUSINESS - none

UNFINISHED BUSINESS
Thompson gave an update on the carbon monoxide detectors. He said that Carr, Carter and himself have met on this topic and are trying to draft some language that will speak to the carbon monoxide in the International Building Code and not in the language of the International Property Maintenance Code simply because the IPMC refers it back to the IBC. It discusses the parameters as to when carbon monoxide detectors should be required. To get some clear direction, he and Bryan proceeded with some language proposal to add to the International Building Code. He recalls originally that the Board wanted to make it mandatory for all rentals. One of the concerns they had if there is a requirement to include language in the code for carbon monoxide detectors, it would have to be universal and all residential units. We don’t have the availability to single out a single type of use. Grimm said that they had agreed it was for all structures. Thompson asked Carter if there was any recommendation for IBC language and how it will be enforced and if he could explain the mechanics of it.
Carter stated currently the IPMC requires that property owners comply with the International Residential Building Code. The International Residential Building Code requires carbon monoxide detectors be installed before permits are pulled or for new construction. The change we would make would take away those two situations and just basically say that carbon monoxide detectors are required. If a current resident didn’t have one and Carr wanted to utilize the IPMC to enforce that, it would be the IPMC referencing the residential building code and the violation would be written under the IPMC.

Grimm said in talking with Mike Dalsing, the hope is that while the American Red Cross donates a lot of smoke detectors, they would go ahead and donate the carbon monoxide detectors as well or combine the units. If they find a residence without one, instead of issuing a notice of violation, the Fire Department would just install one.

Carter stated if you recommend it to the Council, the Council could delay the implementation of it to give everyone some time to get them installed.

Thompson said that this Board would not have any authority under these code changes since they are under the IPMC, but he said that he could bring the language back to the Board if they would like to see it. We can try to get it on next Council meeting agenda which would be next Monday, but it would be another two weeks after that for Council to adopt changes which would be before the Board met again to review it. Grimm said that was okay.

Grimm asked how the smoke detector code was written. Thompson responded that it is written the same exact language.

Grimm shared that Thompson and he had talked with Carol Bronn from the Missouri Health Department; she investigates carbon monoxide poisonings and deaths for the state of Missouri. While the State can’t take a position on what we are doing, they stand behind us and have several utube videos that deal specifically with carbon monoxide and carbon monoxide detectors. As far as she knew, there is only one other city in Missouri that has addressed this. A lot of other cities have a carbon monoxide code, but they have done it through their rental inspection program and made it mandatory for rentals only. One of the reasons why she wanted to follow up on this was so she could use this as a guide for other cities that want to do this. There are twenty-seven states that now have mandatory smoke detectors and carbon monoxide detectors and Missouri is not one of them. Every year, it has been brought up at the State level and every year it is pushed aside. What St. Joseph is doing is something that other cities are looking at and we are in the lead on this one.

Don Roberts, 602 S 10th, told the Board that there should be a penalty for removal of smoke detectors and now carbon monoxide detectors by renters. Grimm didn’t know how they could prove that. Mr. Roberts stated that when he does a contract that there are smoke detectors in the hallway and bedrooms, he has the renter sign off on it. Grimm said that there are several cities that have the renters sign off that they have been tested and that they exist. Burnett said that it is probably a civil matter. Carter stated aside of it being a civil issue, the standard of criminal offense is higher than the standard for a civil offense which
makes it harder to enforce. Grimm told Roberts that he would investigate it. We will talk at another time and see if would do any good to add that to the code.

Green asked what the current code on carbon monoxide detectors. He thinks they are a good idea. He wants to know what this Board is trying to accomplish here.

Thompson said that the current code is if you have a gas appliance within in your house or if the garage is attached to the house, it is required for new construction or at the time a permit is pulled. What we are talking about now is that under the IPMC it is not currently a violation for an inspector to go out and to view a carbon monoxide detector not in place and to issue a notice of violation because of that offense. This will give the inspector the ability to do that. It is not adding a requirement to the building code, it is just a mechanism to enforce that. Currently, we cannot go into that unit unless we are allowed. Green asked if this will apply to all homeowners and all property owners? Thompson replied that it would be all residential property owners. Green asked if the inspector came to your house and asked to come in to look to see if you have a carbon monoxide detector, will he be able to come in? Thompson said no, it would be based on when we are at the property already for another violation; we are not simply knocking on doors to check. Green asked if they came and gave you a courtesy inspection and they find out you don’t have one, they can write you a violation and you would fix it? Thompson said it depends on the situation; our goal is to inform the property owner or the tenant about the violation and give them a chance take care of it. We are there to inform them of their responsibilities. Right now, we cannot go in unless we are invited, but that could change with the voluntary inspection program. Grimm made clear that it is not our intent get a carbon monoxide detector in the house and not penalize them for it. Thompson added that this is a life safety issue; it is not to generate revenue.

Grimm passed out a registration form from Akron, OH for everyone to look over that he thought was good. He thinks the questions on it are straightforward. The Board went over the form. He said that the city might want to make changes to accommodate what they need. Burnett asked for confirmation that this was a mandatory registration. Grimm affirmed and said that this is what we are proposing to the city Council.

Green wanted to know if anyone else had done research on communities that are getting backlash and lawsuits that are being prepared over these issues. Grimm said that several cities in Missouri have done this and they have been sued and all of them have been upheld. He told Green that if he wants to sue the city, it is between him and his attorney, but we are going to move forward and make this mandatory and send it to city Council. Green said that he would hate to see the city do something that is ultimately going to end in a failure. Grimm said that he appreciates that, but we are going to move forward as a Board and think that this will help with some of the problems in the city.

Roberts asked why we are doing this. Grimm said that we don’t know how many rental properties we have in the city and where they are; it makes it easier for the inspector when he gets a call about a property. If we know that it is a rental property, we know that we will be talking to the tenant if it is
something that the tenant is responsible for instead of the owner; from that standpoint it helps us.

Roberts asked if this is a maintenance issue, or what the long-term goal is of this registration.

Thompson addressed Roberts' question and gave him a little background. The city has a provision that three units or more are required to have a business license as a rental business. If you have a tri-plex or ten units within a development, you are required to have a business license. The cost for that is a $1.50 per unit. Of the registered business licenses that operate three or more units within the city of St. Joseph, we have approximately forty-five hundred units currently right now. We know between the census information there is approximately ten to eleven thousand total rental units within the city. The idea is, if we are going to do a voluntary rental program which the Council has created a group to study the formation of a program, how do we monitor the success of that voluntary rental inspection program. Every rental unit that exists within the city should have the same type requirement and thought process. This will be for any property rented out for profit and for residential use. In theory, if we have half of the total rental population being registered with the city, how do we know what our success rate is if we create a voluntary program and at the end of the day, a thousand units applied, is that an acceptable number for self-compliance or would we look back and say that ten percent of the units are participating and the other ninety percent we don't know what exists. The majority of the problems that this group deals with and the larger group that was appointed by the Council, the majority of those issues in working with tenant/landlord disputes are single family, duplex style structures instead of the larger structures. That is the thought and process.

Burnett stated that another large piece of the issue is their arguments in the larger group; his belief is this voluntary program is designed and can be rolled easily into a mandatory program. When they tied it back to the national codes and this mandatory registration, mark my words, it is coming.

Roberts said that brings it up to his next question, selective enforcement of codes. He tried to show the Board pictures of his issue and Grimm asked him if he would sit down and that his issue was not what they were discussing at that point. Councilmember Brian Myers asked for him to wait until the public comment portion of the meeting to speak.

Grimm asked the Board for any comments on the registration form that he had passed out earlier. Benedict asked where on the form it lists the out of state landlord's contact person when the landlord lives more than forty miles away. Grimm didn't know if we could even do that in Missouri. They would have to decide how many miles. Carter said that he could not think of any reason why we couldn't. Benedict said that the Lawrence registration form states "The agent shall have the authority to receive communications, service of process, summons, notices, and other legal process on behalf of the owner. All correspondence regarding this license will be sent to the agent if designated. She thinks it would be good to know who to contact." She has a property on her street that is owned by a lawyer and she is in New York, but we are having problems finding out who her property maintenance contact person is. She likes the simplicity of this form. Thompson showed Grimm a section of code, 7-2 that covers this. Landlords would need a responsible party to contact. Benedict thought it was important to be on the
registration form. Thompson recommended that we cite the section on the form Section 7-2. Burnett was concerned that if they had one rental house they would have to have a property management company. Grimm stated no; it would be someone that lived outside the city such as an LLC. The Board wants this added to the form. Grimm asked if the fees would be the same as they are now $1.50 per unit. Thompson stated that their goal is not to make money. Grimm will leave it up to the city to decide on tax ID#, and registration/licensing application.

Green brought up the issue of absentee landlords and asked if they were out of town for six months, if they had to have this contact person; what is the time frame when you are out of town that you have to have a contact person. He said that he manages his own properties even when he is away and doesn’t want someone else handling his properties for him. He doesn’t want to be in violation of this but would rather someone just call him. Thompson said that if you are not currently in a distance that you can’t take care or answer a question, you are going to have someone here. He said if a toilet overflows, who is going to fix it. Green said that he has people that he can call and have his people there to fix it. He doesn’t want us calling his people and having them messing up his business. Carr asked him how he would get his mail if he was in the Caribbean for six months and Green said that he would have it transferred to him and tenants would drop their rent off at his bank. He said that he would comply without that “third wheel”. Green wanted to know what triggers the moment of having that third wheel. Thompson said what would trigger it would be when we try to contact you and you don’t respond. Mr. Green stated that it would be selective enforcement. Thompson it would be selective enforcement of you calling us back. Mr. Green stated that we would basically be going after people that are doing the right thing and ultimately you would be violating your own code. Thompson stated that ultimately the city would enforce the code when someone is in violation; if that is selective enforcement. The goal is to register property to not babysit the property through the registration program.

Grimm asked if there was any further discussion about the form. Benedict asked Carr what he thought of the form and if he had any suggestions. Carr responded that his only concern was the secondary contact. Grimm stated that most landlords that have a lot of properties would probably already have a printout of their properties and all of the information requested on the form so it wouldn’t be hard to fill out the form and would simplify that. Grimm stated that licensing could probably use the same form.

Benedict made a motion to use the form with the changes that were talked about; second by Comella. VOTE: Grimm – aye, Benedict - aye, Comella - aye, Goodwin - aye. VOTE: 4 Ayes, 0 Nays.
MOTION PASSES.

Grimm asked Thompson if we needed to discuss the registration effective dates; he really liked how Lawrence has done this by using the first letter of the last name of the individual or corporation and it is done on a monthly basis. The upside is you don’t have them all at once. For example, A and B are for January, C and D are February, and so forth. The down side is it would take a year to register everyone, but if we have eleven thousand units, it is going to take a while anyway. Grimm asked staff if it would simplify it for them or how would the city do it? Thompson said it was going to take some time to get the word out to those who haven’t heard about it. Grimm thought if it would pass, you could start this ninety days or one hundred days down the road with whatever that month that is. Thompson said that business
licenses are in the middle of the summer, so we could coincide the start date with the regular issuance of business licenses. He thinks it is going to be a process of those who either don’t know it or do not want to register for the city to have to bring those into compliance as well if we find out there is a property that is occupying as a rental use but not submitting the paperwork. Burnett asked what the cost of that will be for the cost of enforcement. Thompson said it is going to be the job of the inspector or the current city staff. Grimm said that most of the cities he has looked at charge you a flat hundred dollars if they have one unit or a hundred units.

Benedict asked the landlords if they do a lot of things on line or do they do a lot of things with paper. Green stated that some do, but some don’t. Burnett prefers to knock on doors because he wants to see into the door. Some prefer for them to put their check in the mail slot and they never see them.

One landlord stated that they are facing an all-out war out there because the renters are just terrible. Last year was his worst year. He stated that the reason that everyone is getting upset, they are putting all their time and effort into this as hard as they can and then they hear about registering and then inspections. If they wanted to run government housing, that would be what they would do, but with government housing you are waiting a couple of weeks for an inspector, you have to wait on your check a couple of weeks, and you are not getting paid for that time. This is why everyone is so hot under the collar about this as we have all about had it. The landlord stated he had done it for about three years now and it is the worst he has ever seen. He stated that all the inspectors have his number. He said he has told them instead of sending him a letter that he has ten days to comply, just call him because the time he get the notice, he only has three days to comply. He knows this is a separate issue for out of town people that all you have is just where you mail tax information. This is why we are so upset. He wants to know why somebody doesn’t do something for them. He said that they all go on case net to check renters out. Since the year of 2000, he has had 144 cases down in Buchanan County for rent and possessions and small claims court with people. Just the thought of fighting another entity like the city itself it is just too much.

Green stated that this frustration is felt all across this community. He knows a guy who in your hearing, but what he didn’t tell you, he had sold seventy properties the week before. Guys are bailing out including himself. Three years ago, he thought to himself, if they pull this off, he is out and everybody else he talked to saying that they are pulling the plug.

Benedict asked if they go on line or if they want paper. Burnett said they need both. Green said that it would be easier to leave them alone.

Mr. Burnett said that he knows this is off topic, but what these guys are saying, the consequences of this are that guys like him who has always lived here and always been a landlord are selling out and by doing that, it is going to magnify the problem. We are going to end up with a lot more out-of-town investors that aren’t taking as good of care or is available to do that and deal with the city as they are doing today. This is going to snowball as these people aren’t taking care of them after they take possession, they are going
to end up being throwing out, they won’t get their occupancy permit and they will be setting empty and then the people that are paying $400-$500 a month will not be able to afford a better place and it is going to magnify the homeless population. He knows that we don’t believe that, but it is real. There is going to be a lot more vacant units because of this. If you are going to do it, you had better set aside a lot of money to do demolitions.

Green said that when his tenant get one high sewer bill, they call and say that they can’t afford to live here and they have to go live with mom and dad because they have a sewer bill that is $900. He talks to guys all across the community that their tenants are so poor and broke; landlords are the ones propping up the poor and subsidizing them by lost rent. He has $400,000 in collections; $400,000 of debt that he is propping up. These other landlords have the same amount; it is an astronomically amount. That is a lot to use but he keeps chugging along and propping them up, but when they call him up and say that they can’t afford the rent this week, I tell them to give me what you can and we will work it out, but the day I say no, a California investor, this is strictly money, get out, where are they going to go?

Green stated that landlords are the ones propping up the poor and subsidizing them by lost rent.

Benedict said the form needs to be online and paper.

Greg Lowrence, pointed out on the form, in the personal information about who owns property and addresses, he has a problem; he doesn’t file taxes under a partnership, he is just an individual. He knows the city is not good about securing social security numbers. Can that information be removed? Burnett said that you are not required to have a tax number, you can use your social security number. Grimm said that was something that Legal would have to answer. Mr. Green said that the city would never get it from them. Carter stated that a good reason to have a tax I.D. number, not necessarily a social, for referencing due to the different methods of abbreviating entity names. For instance, St. Joseph versus Saint Joseph; chances are likely to exist with personal names since you don’t deviate from the way you spell your name much of the time. So that would be one basis for keeping a tax I.D. number, but not a social.

Grimm stated that it is required on all city licenses. Thompson said that we are not trying to get any confidential privilege information because obviously anything we receive becomes public information. Grimm said that the city can amend the form any way they want it.

Grimm went back to effective dates of registration. He asked if we even need to propose that to the city? Thompson said that about the time the Council approves and we do an educational piece, it will be a couple of months down the road anyway. Thompson said that we try to coincide it with the current business license structure. Benedict said that Columbia gives them one year to comply. Thompson said the more we can allow voluntary compliance, the more success we will have than trying to have a hard and fast date and going out trying literally to knock on doors to see who is participating. Grimm thinks there needs to be a penalty. Thompson asked up to an amount? Grim said yes or even push it back for the first year or something for compliance. Thompson said that staff can work on something to present to this Board. We will need to see what the legal parameters are and try to make sure that we have
addressed the questions that we have heard today and make sure we know the course we are taking.

Grimm asked if there was anything else we need to address on registration or licensing.

Grimm stated that we will hear public comment now.

Don Roberts, 2513 South 10th, asked the Board if they had time to look at the pictures he had passed out earlier. He is talking about selective enforcement of the code. Grimm told him that is an issue between him and the city. Mr. Roberts said that it has everything to do with them. Selective enforcement of the code is what he wants to address the committee about including Council members present. Bryan Myers said he has no problem with him speaking, but that Grimm is conducting the meeting and he gives the directive. Roberts referred everyone to the GIS map he had given to the Board. The picture he passed out was taken on December 13, 2017. Grimm asked if the trash in the pictures had been reported to the city. Roberts said yes. He said that he had come in and complained to Flury on that date. Roberts said that he had received a city letter real close to that date that his grass was tall. He showed the pictures to Councilmembers present. He wants to know why we are making more rules when we can’t enforce what we have. This is what he is having the problem with. On March 2, 2018, the trash was still there. It finally was taken care of. He said that the trash had been there so long that the cloth had rotted off the mattress. He said that is selective enforcement of the code. He asked when this meeting today was set up and ran through the clerk’s office. Mr. Roberts said it was the third. He doesn’t know why there isn’t a longer notice time so they know more about this. He knows that we didn’t dream this meeting up this morning. Grimm said that it is published according to city code. Councilmember Novak asked if we didn’t have standard meeting dates. Grimm said that it is the first Tuesday of the month at 1 pm and it is on the city’s website. He told Mr. Roberts that he can subscribe so he can get emails of all the meetings.

Grimm addressed Roberts and told him that the Board understands and that Carr and the two councilmembers will check into it and find out what went on and that is all they can do. Councilmember Myers told Mr. Roberts that there are time frames that the city has to work within. Councilmember Myers said that he was not making excuses but the Council that is currently in session is going to back city staff. Roberts said that is why he is addressing them today. He said that Council is backing up city staff but the staff is not enforcing the code. He told Councilmember Myers to go down to 2531 South 13th and look at that piece of property and the trash around it and no one has addressed it.

Grimm said we will try to get with Roberts and give him an honest answer of what happened; that is all we can do.

**ADJOURNMENT**
Grimm called the meeting adjourned at 2:08pm; second by Benedict.

Minutes respectfully submitted by Carol Flury, recording secretary.