ADMINISTRATIVE VIOLATION REVIEW BOARD
MEETING MINUTES
September 4, 2019 – 2:00pm
City Hall, Fourth Floor Conference Room

<table>
<thead>
<tr>
<th>Name</th>
<th>Attendance</th>
<th>Term of Office</th>
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<td>(mtgs attended-mtgs absent)</td>
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<tr>
<td>MEMBERS PRESENT:</td>
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<tr>
<td>Pat Benedict</td>
<td>(50-6)</td>
<td>4/29/22</td>
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<tr>
<td>Don Daffron</td>
<td>(05-0)</td>
<td>4/29/21</td>
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<tr>
<td>Jason Eslinger</td>
<td>(02-1)</td>
<td>5/27/24</td>
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<tr>
<td>Becci Goodwin</td>
<td>(42-3)</td>
<td>4/29/23</td>
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<tr>
<td>Mary Kottenstette</td>
<td>(01-0)</td>
<td>4/29/20</td>
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<tr>
<td>MEMBERS ABSENT:</td>
<td>None</td>
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<td>OTHERS PRESENT:</td>
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<tr>
<td>Ted Elo, Assistant City Attorney</td>
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<td>Juston Carr, Property Maintenance Manager</td>
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<td>Charles Starling, Property Maintenance Inspector</td>
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<td>Chance Stewart, Property Maintenance Inspector</td>
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<td>Carol Flury, Recording Secretary</td>
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ROLL CALL – Five (5) members were in attendance; quorum present. Pat Benedict - present, Daffron - present, Eslinger – present, Goodwin – present, Kottenstette – present.

Eslinger called the meeting to order at 2:03pm.

APPROVAL OF MINUTES- July 17, 2019
A motion to accept the minutes from July 17, 2019, was made by Goodwin; second by Benedict. Verbal vote taken; all ayes, no nays. MOTION PASSES.

NEW BUSINESS – none

UNFINISHED BUSINESS

A. CASE NUMBER AP19-25307 – A request for review by Charles Hayes, 6802 Washington Street, for Violation of Section 15-29 – Prohibited Vehicles – vehicle with a flat tire, elevated and parked on a soft surface.

Carr stated that this issue has been resolved. Elo stated that it is up to the Board to determine if this is now compliant, if it is sufficient and to withdraw the administrative penalty or if you want to assess it further. In talking with Mr. Carr, the City’s position is that compliance was what the City is looking for and at this time, we would not want to be punitive and level the penalty. Juston said that they had the tire back on and inflated. Eslinger asked if we were going to do a follow-up. Stewart stated yes. He had drove by on July 17, 2019, and the vehicle was still dismantled. Mr. Hayes had indicated that he wanted the car towed. Stewart had tried to contact Mr. Hayes, but never was able to make contact and he had not filled out the proper paperwork.

Kottenstette said that she had driven by that morning and it looked very similar to the first pictures.
Carr stated that after Stewart had gone back and re-inspected, the tire was put back on and was in compliance with what we had originally cited for.

Eslinger stated that they are tasked with keeping the $100 penalty or go with the City’s recommendation to waive that penalty.

Daffron asked if the tires were not inflated if that mattered and Carr stated yes. Daffron asked if it had license plates up to date. Stewart stated that he believed that the plates were expired.

Eslinger asked if they could get an updated photo and put this off until next month and see if he has left the tire on or if it is off again. Juston said yes, that the code is not dismantled on a hard surface, vegetation free. Carr said that they can go back out and verify the data.

Benedict made a motion to postpone this until the October meeting to see if Mr. Hayes is in compliance; second by Daffron.


B. CASE NUMBER AP19-25254 - A request for review by James Hawk, 2908 Pear Street, for Violation of Section 15-29 Maintenance of Property – Prohibited Vehicles – for allowing any unlicensed/licensed vehicles to be parked on a soft or hard surface.

C. CASE NUMBER AP19-25255 – A request for review by James Hawk, 2908 Pear Street, for Violation of Section 15-25 Nuisance defined or declared – Trash and Debris – garbage bags, miscellaneous scattered trash and debris.

D. CASE NUMBER AP19-25256 - A request for review by James Hawk, 2933 Pear Street, for Violation of Section 15-29 Maintenance of Property – Prohibited Vehicles – for allowing any unlicensed/licensed vehicles to be parked on a soft or hard surface.

E. CASE NUMBER AP19-25257 – A request for review by James Hawk, 2933 Pear Street, for Violation of Section 15-25 – Nuisance Defined or Declared – Trash and Debris – tires, pallets, semi junk parts, metal, junk on trailers on west side of property, miscellaneous scattered rubbish and debris.

Elo said in referencing collectively items B, C, D, and E, AP19-25254, AP19-25255, AP19-25256 and AP19-25257, only late this morning in a conversation he had with Mr. Powers, Mr. Hawk’s attorney, and Juston, that there has been some improvement on one of the properties with miscellaneous scattered junk and debris and the other one on the south side of the street has not had improvement. There is also an action in Circuit Court against Mr. Hawk to convert an administrative penalty into a judgement. It was up for a proceeding on Friday of this week. In talking with Juston, due to the fact that Mr. Hawk finally, although begrudgingly, over a lengthy period of time, has commenced the debris removal and stacking on the one property and in talking with his attorney, they have agreed to settle the matter in Circuit Court and pay the City $2,000 which will be held in escrow or in trust pending completion of the cleanup of the
two Hawk properties on or before the October meeting date, at which time the matter would be revisited and any complete or substantially complete with progress continuing, there is a financial incentive for Mr. Hawk in that he gets his $2,000 back. The City’s position is that we would rather have compliance rather than money particularly on one of the premises that is on the north side of the street which is an ongoing business. The south side of the street is somewhat of a junk yard. There is a fence partially down and there is a lot of recent growth of vegetation that is to be tackled after the northern property is resolved.

Now that Mr. Hawk has a financial incentive and Elo has his check to escrow, he acknowledges that the violations do exist and if there isn’t continued remediation, and the get property up to where it needs to be, then the escrow money will be tacked on the civil case and then these penalties will be able to be imposed. If he does comply, he gets his money back. We are striving for compliance. At least one of the properties is listed for sale and there is incentive to clean the property up, to make it more attractive for a potential sale by Mr. Hawk. Elo clarified that everything is supposed to be cleaned up on the two properties by October 2, 2019.

Carr stated that they had put up no trespassing signs. Elo said that we will have no problem with right of entry.

Eslinger brought up that on May 10th, Mr. Hawk said that he would hire an outside company and get it cleaned up. Elo said that the biggest facilitator of the commencement of the cleanup was Mr. Starling provided to him photos that he mailed to Mr. Powers and then he had a conversation with him and told him to get started and that is what finally precipitated the commencement of the cleanup.

Eslinger asked if the old administrative penalties would be converted to judgement that is for the same thing? Elo stated yes. Eslinger understands that on October 2nd, if not done, we will be able to assess these. Elo said that these penalties will be levied, and the stay will be removed them and new ones can be issued. Eslinger asked if we can issue new ones now and Elo stated that they are stayed right now during the pendency of this. In talking with Juston, he concurred that we want to get this junk removed and the weeds knocked down and make the property as attractive as possible; it will never look pretty, but it can be made code compliant.

Kottenstette asked if the trucks and trailers in the field were part of the complaint. Elo replied that they can be there as long as they are “stacked” and the inventory is stacked in or on the trailers in an orderly fashion.

Starling went over the timeline on these properties. He said that Mr. Hawk takes a couple of trailers full from one property and moves it over to the other property to make the first property look cleaned up.

Eslinger asked why give him administrative penalties if he doesn’t care. Elo said the alternative if for the administrative penalty process to end and the City go in and abate the nuisance at a cost of a signficant amount of money and the City has to actually determine what is junk and needs to go to the landfill or what can go to the recyclables and to the extent we have continued cooperation for the next four weeks. Now, he has a financial incentive to pay to the City the old administrative penalties from 2014. He does have a history of cleaning the property up. And then, after it is cleaned up, he keeps it that way for a year or two and then it goes back down. This is what Juston has seen in the twelve years that he has been here. This will be the fifth time since he has been with the City that he has cleaned it up and hopefully, through
the administrative penalties as an inducement to keep the properties clean, we won’t have to go in and abate the nuisances. Eslinger doesn’t think that the administrative penalties will help. He would be okay with giving him another month if he would clean it up.

Benedict asked what the neighbors think and those who live behind him. She is concerned about how this effects the neighbors. Starling said that there is a drop off on the back part of his land and Mr. Hawk pushes stuff off the hill and no one can see it. Elo said that behind is Whitehead Creek.

Starling said the neighbors on the north, everyone keeps their properties immaculate. On the south side, one property was not kept up and he made the owner clean it up. That owner asked what is being done about Hawks property and Starling told him that he was working on it.

Eslinger asked what would the City do if Mr. Hawk does not clean up the property. Carr said that the City would hire someone to go in and clean the property with a front-end loader and tow the semi-trailers off.

Carr told Eslinger that we have higher administrative penalties now than we used to have. We used to have $25 penalties that Jim Hawk would never comply with; it would be like here is $50 and that would buy him a year. Now we have $2,000 worth of administrative penalties that is more of an incentive and if he doesn’t comply, we will have it right up to $2,000 in October and could get up to $5,000 if he does not comply. So, that is the purpose of him doing that

Daffron asked if he doesn’t pay would it be a lien on the property and when he sells it, it gets paid? Elo stated that is what the other case is in Circuit Court, the lien on the property via the administrative penalty process. He has filed a declaratory judgement action which is a petition in Circuit Court to have that converted into a Circuit Court judgement. This will make it a little more likely to be collected when he sells the property or any property he may sell, he will have to acknowledge that judgement and satisfy it.

Elo stated that this is the purpose of him doing this. There will be a time when we do that more frequently. We won’t see any more money or results from that process until someone goes to sell the property unless they want to come in and pay it on their own. If Mr. Hawk, who lives in Easton, Missouri, wants to sell his property out there with a judgement against him and his wife and he sells his house, they are going to withhold the proceeds of the payment of the judgement out of the proceeds of the sale. It raises the City in priority as far as being paid back.

Eslinger said if he never sells anything; the City would just be sitting on $20,000 of cleanup and administrative penalties that we will never get paid. Elo responded yes.

Daffron was concerned about him pushing this stuff over a bank; Benedict concurred. Kottenstette asked if the City can stop him from creating a landfill with water and metal down there. Charles says that when the rank growth is down he can see everything back there better.

Elo said that if he takes everything from the northside of the street and puts it to the southside of the street and he fixes the fence and cuts the weeds, that is compliance.
Daffron stated that there is not much we can do down the road on this. Elo said that the fact that the City is willing to give him his money back will go along way toward himself or him hiring someone to clean it up.

Eslinger confirmed that Elo would talk to Hawk’s attorney about right of entry since the no trespassing signs have been put up and Elo confirmed.

Daffron was concerned about the trash over the cliff. Carr said that ultimately his crew could clean that up and the rank growth at $21.50 per worker for every fifteen minutes. He could file restitution, judgement and a citation.

Benedict made a motion to stay until October 2, 2019 to see if there is compliance; second by Daffron

**VOTE:** Eslinger – aye, Daffron – aye, Benedict – aye, Goodwin – aye, Kottenstette – aye. Ayes - 5; Nays - 0. **MOTION PASSES.**

**ADJOURNMENT**
Eslinger called the meeting adjourned at 2:37 pm.

Minutes respectfully submitted by Carol Flury, Recording Secretary.