

MINUTES
SPECIAL WORKSHOP MEETING
CITY COUNCIL

June 29, 2015

Mel L. Cohen, Mayor

Sally W. Sandy, City Manager
Louis E. Vinay, Jr., City Attorney

John H. Cantrell)
Forrest A. Fleming) Councilmen
Sidney Simmons)
Ronnie Thompson)

Others in attendance included: Scott Hildebran, Assistant Manager; Lee Anderson, Director of Development and Design; Mike Crotts, Senior Building Inspector; Terry Jordan, Code Enforcement Officer; Russ Cochran, Senior Planner; Joshua Harris, PIO; News Herald reporter Glen Flanagan.

I. Call to Order – The Mayor called the workshop meeting to order in the Conference Room 4 of City Hall at 12:00 p.m. The purpose of this workshop is to discuss ordinances dealing with dilapidated properties.

The City Manager stated that Morganton has long had, and applied, an ordinance on remediation of dilapidated residential structures, which tracks the authority granted municipalities by statute to address such problems. However, there are also a number of commercial, industrial or other non-residential buildings in the City which are abandoned or have fallen into a serious state of disrepair. Our current ordinances do not grant clear authority to deal with those structures. Indeed, the only present authority seems to be the City’s general nuisance ordinances, under Part 8, Chapter 4 of the Code—which is fine for dealing with overgrown vegetation, pile-up of trash, etc., but which does not really allow for remediation of the buildings themselves.

The City Manager stated the City Attorney and Lee Anderson have put together a draft ordinance which would grant the City considerable authority to attack the problem of abandoned and dilapidated non-residential structures. The ordinance, drafted partly based on review of similar ordinances in other comparable cities, is actually a combination of two approaches or concepts. One, grounded in General Statutes 160A-426, provides for inspection and repair/demolition of “unsafe buildings” in designated “community development target areas”. This process is set out in sections 8-10 of the draft ordinance. The other, based on the broader provisions of General Statutes 160A-441, provides for inspection and remediation of “abandoned structures” anywhere in the City. This procedure is that set out in sections 5-7 of the ordinance. Under either process, if an owner failed to comply with any order ultimately issued to remediate, the City would have the right to take action on its own, then impose a lien on the subject

property for the cost of such action (and in the case of the community development target areas, a lien on other property in the City owned by the same person).

Of course, actually enforcing such an ordinance would certainly require significant appropriations.

The goal of the meeting is to decide whether Council would like staff to propose an ordinance to deal with non-residential dilapidated property and if so, to bring this back to Council in August.

The City Attorney summarized the draft ordinance. He stated the issue with the current ordinance, while fine for dealing with residential structures, does not really specify any guidance for non-residential circumstances. During the tour of dilapidated structures last year the Council saw many industrial sites and businesses which were of concern. The draft the Council has in hand is a very preliminary draft.

The City Attorney outlined two general approaches: the general non-residential structure remediation and “community development target area”. There is an advantage to designating a target area; if the City does the work itself and puts a lien on the property as we currently do with residential, a lien could be placed on any other property the owner has in the City.

The City Manager stated that is a two edge sword. While on the surface that sounds good because it’s a “bigger stick” you could wave at a landlord, such multiple property owners will also likely be the people who could afford to raise a legal challenge.

The Attorney stated a non-residential ordinance would be set up very much like the residential ordinance. If the inspector found there were dangerous or unsafe conditions they would issue an order and notice, have a hearing, and order repair or demolition. If the owner does not comply, the inspector could ask the Council to demolish the property and impose a lien for the cost. The tactic would be the same, try to force the property owner to do the work himself.

The City Attorney wanted to note that demolishing a house is one thing, demolishing an industrial building which has thick heavy walls and larger square footage will usually be more expensive.

The City Attorney stated his final point to the Council is they should be ready to proceed politically, as well as financially.

The City Manager stated that in the residential ordinance the lien that is placed is double the cost of the work to demolish. In this proposal, the lien would be only the cost of demolition.

The Mayor asked if we typically received the money owed from the lien when the property sold. The Attorney stated the way he read the General Statutes is it would be the same as a tax lien so we would be first in line to receive money.

Lee Anderson stated the point of contention would be the value of the property and how that would be determined. He stated they ran into that a few years back and it highlighted the weakness in the ordinance, giving the example of when the Red Carpet hotel burned. He stated that one person's junk is another person's treasure when determining value. Anderson stated the ordinance may state tax value but the Council may want to have an appraisal done. He stated that personal property rights are very important and we want to be lock-tight before moving forward. Anderson stated that the suggested ordinance is a very conservative approach as compared to what the School of Government has outlined. A challenge would be in assessing if a property in disrepair is hurting the values of adjacent properties; endangerment is not only about the safety of the building but how it affects the neighborhood and property values. Anderson gave the example of the old A&P building on East Union Street and how, while that building was structurally sound, it caused more and more blight in the area. He stated he feels this proposed ordinance falls in the middle of what is out there in terms of ordinances.

The City Manager stated we needed to explain what a "community development target area" is and what the characteristics of a target area are. The City Attorney went over the parameters which include, according to the draft proposal, "areas or neighborhoods which have the characteristics of urban progress zones as defined in General Statutes §143B-437.09, or which have similar characteristics to such zones and which are in special need of revitalization for the benefit and welfare of all the citizens of Morganton, and such areas or neighborhoods are hereby declared to be community development target areas. The City Council may, from time to time, by ordinance duly adopted, describe and delineate one or more such community development target areas."

Lee stated that the East Union Street area was designated a blighted area through the redevelopment statutes. He talked about how urban progress zones are set up by census tract and stated the Broughton hospital area may fit the parameters which may be helpful in finding future funding to redevelop that property..

Terry Jordan asked why not consider doubling the lien as happens on residential properties. The City Attorney stated it was due to statutory authority. There is no authority in our ordinance for the double lien on residential properties but it is in the Schedule of Fees & Charges. The City Manager stated the ordinance says Council can set a fee.

The City Attorney stated he spoke with the attorney for the City of Hickory. Hickory has a fairly aggressive program of addressing non-residential, dilapidated structures. They have worked closely with the owners trying to get them to do the work; partly due to the cost of demolishing an industrial building. Sometimes patience and persuasiveness is what it takes. The City Attorney stated that the City of Hickory has obtained brownfield grants. There followed discussion about what locally might be considered as brownfield

and qualify for grants. Anderson stated that many of these properties get ignored because owners can't get funding because of brownfield situations that are costly to clean up.

The Mayor asked how to get a brownfield grant for a project like Henredon; would it be for tear down or could it be used to refurbish the property. Anderson explained the process for requesting these grants. The Mayor asked why BDI wouldn't apply for these grants for the Henredon property. The City Manager stated possibly the lack of resources, lack of staff to manage the grant, and then ultimately the marketability of the project must be considered.

Councilman Thompson asked if the Council chose to double the lien could that money be put into a fund that could be used for future non-residential demolition. The City Manager stated the problem is it could be many years before that money is actually received, if it is received at all. The City Attorney stated in Hickory they appropriate money each year for a "vacant building grant fund"; with this pool of money they grant or loan monies to the property owners for help with demolition.

Lee Anderson stated that it would be great to build such a pool. Anderson stated the City will give a property owner a \$500 grant toward tear-down out of currently budgeted nuisance abatement funds. The City Attorney stated a lot of the buildings are abandoned because there is no one to act; the owner is deceased, heirs do not live nearby, or the business is defunct.

Terry Jordan asked if the City could foreclose and sell the properties itself. The City Attorney stated that was a good point and it could be done but would have to be a matter of policy set by City Council.

Councilman Fleming stated that he was still not clear on why the City could not double the cost of demolition for industrial property. The Attorney stated the statute does not clearly state that they can; it states the amount of the cost of whatever the remediation is shall be a lien upon the property. The way he reads it, he stated, is the amount of the cost, period. There was discussion on the fact that staff time, appraisal fees, etc. were not factored into the "amount of the cost". Councilman Fleming stated that all those costs need to be factored in to the lien amount.

Councilman Fleming asked in the history of this type of project have any of the liens been collected. Lee Anderson stated that yes some liens have been collected.

The City Manager asked if the Council was interested in pursuing an ordinance that addressed non-residential properties. The Council was in agreement this was something staff should continue to work on. The City Manager then asked if the Council felt the approach presented in the draft ordinance was a good approach. The City Attorney stated that this would only be giving the Council the authority to be able to target areas.

The consensus was to put the recommendations into two different ordinances; non-residential and community development target areas. The City Attorney stated there would be no changes in the residential ordinance.

There was some further discussion on how an area was defined.

Councilman Thompson asked for clarification on what they are asking of the City Attorney. The City Manager clarified the steps stating the goal was to bring a proposed ordinance before the Council for consideration at the August 3 council meeting.

II. Adjournment – The meeting was adjourned at 1:00 p.m.

Preparation of Minutes. These minutes were prepared by Mikela D. Russell, Assistant City Clerk. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.



Mayor

Assistant City Clerk