

**MINUTES
CITY OF ST. CHARLES, IL
PLANNING AND DEVELOPMENT COMMITTEE
MONDAY, MARCH 12, 2012 7:00 P.M.**

Members Present: Chairman Carrignan, Ald. Stellato, Monken, Turner, Rogina, Martin, Krieger, Lewis, Bessner

Members Absent: Payleitner

Others Present: Mayor Donald P. DeWitte; Brian Townsend, City Administrator; Rita Tungare, Director of Community Development; Matthew O'Rourke, Planner; Russell Colby, Planning Division Manager; Chris Aiston, Director of Economic Development; Chief Mullen, Fire Department; Robin Jones, City Attorney

1. CALL TO ORDER

The meeting was convened by Chairman Carrignan at 7:00 pm.

2. ROLL CALLED

Roll was called:

Present: Stellato, Monken, Turner, Martin, Krieger, Bessner, Lewis, Carrignan

Absent: Payleitner

Chairman Carrignan asked to have item 4b. Recommendation for Residential Rental Licensing and Inspection program moved on the agenda to be discussed first.

Ald. Stellato recused himself from discussion as the company he is employed with does own residential properties within the community and therefore has a conflict of interest.

Ms. Tungare said the program has been structured in response to direction received from the Planning and Development Committee and City Council in November of 2011 for structuring the program with 4 components: Annual rental license, Crime free lease addendum, Crime free housing seminar and Exterior Inspections. She then shared a PowerPoint presentation that gave a brief overview of the program, the recommended implementation timeline, proposed license fees, public input process and feedback received.

Chairman Carrignan explained the process in which the meeting would proceed as far as public and Committee comments and question in regard to the Rental Licensing Program.

Aldr. Bessner asked if single family, condos, townhomes, 3-10 or 10 +, are there any set parameters of those that are a majority of the rental properties. Mr. Vann said not many condos but more single family due to foreclosures. Ms. Tungare said it's an estimated number received from utility billing so there may be conversions that the City is not aware of, but in terms of the

number of complexes; between 3-10 units is 16, and 11-15 and 51-100 units range from 7 down to 1 complex.

Aldr. Lewis asked if there were any way to waive the fee for the license and if a landlord only owns 1 or 2 properties if they could somehow be exempt. Ms. Tungare said that it could be done but it would be a Council decision and that the cost of administering the program would have an impact on the City's operating budget because someone would have to pay for it. Aldr. Lewis asked if the biggest cost is the inspections. Ms. Tungare said the cost comes from inspections, but also administrative work, and a one-time set up cost initially to set up the electronic system, and the training and any legal fees. Chairman Carrignan said in waiving the fees his concern is where the money will come from and in calculating for 3 units, its \$4.00 per unit per month, and a 10 unit is about \$1.50 per unit, per month. Aldr. Lewis said yes but per house it would be \$42.00.

Aldr. Krieger said she feels it's a big problem in her ward with single-family homes being purchased to rent out and then there are suddenly an exorbitant amount of people moved in and that in some areas she feels the single-family are a bigger risk than the multifamily.

Aldr. Rogina said last summer he met with some homeowners from the 3rd ward along with the Mayor, Police Chief and Aldr. Turner and there was fear and trepidation about a variety of things with respect to criminal activity. He said other communities have adopted this program and that he trusts the City's Staff to confer with legal counsel to review the proposal. He said he didn't place too much value on the constitutional argument but that he supports the revised Chronic Nuisance Ordinance 100% and wants to approve it tonight. He said in regard to the Licensing Program, due to the crime rate in St. Charles being down, to say that the program should be adopted concerns him without having some stats to back it up.

Aldr. Turner said because the impact would be so low, he is in favor of the proposed fees and the increases.

Aldr. Monken asked if there is a ratio of crime between single family and apartments. Chief Lamkin said they do not catalog crime based on the property type, it's by address.

Chairman Carrignan asked relative to fees, where the City's fall in line with other communities. Ms. Tungare said some other communities charge separate fees for the licensing, the inspection and the training and adds up to hundreds of dollars. She further stated that the proposed fees are comparable and lower than most of the communities surveyed.

Chairman Carrignan said in regard to the checklist for inspections and someone going to training in another community, how will they understand the City's checklist. Ms. Tungare said there will need to be extended customer service and education on the City's part, and the training is specifically related to crime free training whereas the checklist is for exterior inspections of physical conditions of the property.

Chairman Carrignan said in regard to the number of days to correct a violation that he agrees that a life safety issue should be a priority and have 7-14 days and 30 days for non-life safety issues.

Aldr. Rogina asked if the Chronic Nuisance Property Ordinance is approved with the Addendum added on would it address the issue of Nuisance Abatement in rentals and single family homes. He asked is it feasible to pass the Crime Free Addendum and charge a token fee which will then allow the City to take control of the adjudication of the violations. Chief Lamkin said if there were violations within the nuisance abatement and used it as the mechanism, and for a landlord to invoke the need to abate the problem and then use the language in the addendum as the means to try to abate the problem there will need to be a mechanism such as the rental licensing in place. He said the addendum could be the mechanism that if the landlord did not abate the problem to cite a violation of the licensing provision.

David Amundson-500 Cedar St.-said in regard to the Crime Free Addendum that there is already an Illinois state law that allows for the eviction of tenants who commit crimes on leased properties. He said he feels this has Constitutional issues, and that the memo inserted in the packet by Shriver Center lawyers has said that this violates the US Constitution equal production clause, violates the US constitution due process clause and violates federal and state civil rights laws. He said he feels it's a lawsuit waiting to hit the community. He said a situation where there is a victim of abuse is already impossible for it to be brought to the Police due to the turmoil brought to the family, and now if it is known that the victim and children will be evicted it will never be reported and he feels it puts a chilling aspect on being a tenant in St. Charles. He said he would personally leave town if he were forced to sign this and he now has no interest in becoming a landlord in town. He then gave examples of tenants committing crimes in other states and said it exposes landlords to all sorts of liability and that there are so many aspects of the proposed Ordinance that should not possibly be legislated and its unconstitutional and there will be significant ramifications for the City to now dictate the activities of its citizens everywhere there walk in life.

Ms. Jones-City Attorney- said it should be pointed out that the Crime Free Lease Addendum is not the City telling a landlord that they have to evict the tenant. It's a tool made available to the landlord and the City is not mandating anybody ever be evicted from their premises. She said in regard to the letter from the Shriver organization, they express their viewpoints, but that she believes their issues are more of a policy consideration to be taken into account. She said she read it thoroughly and there is very little case law cited and none of the case law has directly dealt with these types of Ordinances. Ms. Jones clarified that it does not guarantee that there are no issues, but she just wanted to point it out and aspects of the Ordinance have been in others that have been challenged and constitutently been upheld. Chairman Carrigan asked in Ms. Jones opinion if this Ordinance would be upheld rather than overturned. Ms. Jones said given her opinion, only based on existing case law and she has seen many of the provisions in common that have been upheld and that the Dept. of Housing Urban Dev. Has similar, but more restrictive provision about evicting tenants for criminal activity on and off the premises.

Aldr. Rogina asked about the State Statute giving the municipality the right to evict. Ms. Jones said no, there is a State Statute that allows landlords the right to evict based on criminal activity.

Kristen Jungles-Foxvalley Realtors Association-216 Douglas-Naperville-Suggested that like some other towns to have the Community Development Dept. and Police Chief compile a list

from the last 3 years of where crime calls have come from and then address their Ordinance based on crime.

She asked in regard to the language of the Ordinance that requires the property agent or the owner live within 50 miles of the rental property, and she wanted to know why that's important. Ms. Tungare said the issue that comes up with absentee landlords and property owners not being near is violations in regard to grass and weeds and other property maintenance issues, and no one to deal with that. Ms. Jungles suggested that it be taken out of the Ordinance because if someone is working with a transfer company it cannot be guaranteed that they are working with a local St. Charles realtor if that will be their designated property agent.

Ms. Jungles said in regard to the Crime Free Housing seminar requirement that the language now requires a pre-approval, and realtors have said to her that if it's a pre-approval they will not even look in properties in St. Charles because they already have the class done and what if the Chief does not approve the class completed in another municipality. She agreed that the fees are right in line if not a bit below average for surrounding areas that do charge fees.

Ms. Jungles said in regard to inspections being completed 120 days before the closing, that she is not sure why inspections would be required if they are registering every four years and that there will be scenarios where a residential rental will be sold to a new property owner that does not intend to rent it so why the inspection. Ms. Jungles suggested striking that entire section of the Ordinance. Ms. Tungare said Staff would look into this.

Ms. Jungles suggested an extension on violations uncovered during inspections, and that her organization endorses if a municipality takes measures to eliminate crime.

Jason Stoops-Stoops Enterprises-with a wide variety of properties from single-family to 4 units. He said he would like the Committee to re-evaluate the fees for licensing for duplex's to be 2-4 units. He said in regard to the Crime Free Addendum, that he currently has one with the lease agreement for about 8 years and this years is his first trying to enforce it and he gives his support to the City, however he worries about the extent of the City could do to back an individual owner on an eviction of a tenant and that he thinks the States' Attorneys input would be very well used in the language, especially in regard to convictions versus arrests, for the enforceability. He also asked if the addendum would trump any of the provision of leases in place already.

Chairman Carrigan asked about being arrested versus convicted and if it would be in the City's best interest to only pursue convictions. Ms. Jones said she views that as more of a policy issue but that if conviction is required it lessens any potential issues raised, but that the addendum does not say that an arrest is sufficient, it says you do not have to have a conviction but a preponderance of the evidence.

Phil Kessler-St. Charles resident and landlord-said he owns several properties and like many landlords in the area he tries to keep properties in good repair and good tenants without crime. He said landlords provide a function to the community that is rarely acknowledged providing a free market function and a few things mentioned tonight could curtail that, one being the inspection upon sale clause, and in regard to fees being only a few dollars a month, tenants have leases and it could take a year or two before raising the rents which would take money out of

property owner pockets until it can be recouped. He suggested if there is to be a program to keep it small by postponing the inspections, he feels crime free addendum is not a bad idea. Chairman Carrignan said if everyone were good landlords this conversation would not be happening.

Martha Gass-211 South 3rd Ave.-asked for clarification on the Crime Free Lease Addendum concept. Ms. Jones said the addendum gives the landlord the right to peruse eviction Ms. Gass asked if the City would be able to force a landlord to pursue that through the license program. Ms. Jones said as part of the program the landlord has to have the addendum attached to every lease entered into, but it is up to the landlord to pursue the eviction. Ms. Gass said even if the City wanted to pursue, but the landlord did not, it would not be pursued. Ms. Jones said the addendum is an agreement between the tenant and the landlord and the City doesn't have any intent to directly go in to evict tenants. Ms. Gass asked if the City could force the landlord to evict by threatening to revoke their license. Ms. Jones said the license could be revoked if a there is a refusal to have the addendum as part of their lease agreement. Ms. Gass mentioned interior inspections. Ms. Jones clarified that there are no interior inspections as part of the licensing program. Ms. Gass asked what the exterior checklist would entail. Ms. Jones said it would be to determine compliance with building, fire and property maintenance codes. Ms. Gass said she would advocate compiling a list of crime areas and target those with a solution, and she is also in support of a program that is less intrusive.

Chief Lamkin said there have been monthly apartment manager meetings and have recently expanded upon and publicized those more to invite any landlords owning rental properties. Chairman Carrignan suggested posting those meetings on the website.

Jim Coleman-Coleman Management Company, Realtor, Property Manager-703 E. Main St.-commended the City and Chief Lamkin regarding the monthly landlord meetings, he said all landlords should consider coming, he said they are very informative. He suggested in regard to the Ordinance, waiving the property owners from the training and allowing just the managers to attend seeing as though many owner live out of state. He also suggested since there is already code enforcement in place, he would like to see a reduction in the fees. Ms. Jones clarified that the training can be taken by either the manager or property agent.

Craig Bobowiec-508 Cedar St.-said since the City already has an exterior program in effect, he does not know why it needs to be mandated on just landlords. He feels it's unconstitutional.

Aldr. Lewis asked if there is any way to keep track of the amount of calls received for code violations and separate those calls by rentals or home owners. Mr. Vann said after a report is made and it's determined whether its owner occupied or a rental property they divide and calculates and it comes out to be 15% of rental properties versus owner occupied.

Brian Taylor-211 South 3rd-suggested doing a study with other communities who have adopted this Ordinance and finding what portions have been beneficial before adopting the Ordinance.

Chairman Carrignan said he feels the property agent versus owner within in 50 miles needs to be addressed. He said the licensing itself still needs more work. He feels the Nuisance Abatement

as far as helping the owner evicting a tenant needs to be looked into further. He feels stricter code enforcement not only for landlords and rentals but homeowners are critical. He said he encourages landlords to attend the landlord Council meetings. He suggested putting the Nuisance Abatement in place, direct staff to have stronger enforcement of the current code, and come back in 12 months to see if there's an improvement in the process.

Aldr. Rogina suggested starting small and identifying specific areas, he asked if in regard to the Nuisance Abatement adding abandoned cars to the list because he receives many complaints. Mr. Vann said as long as they are registered and operable there is nothing legally that can be done.

Aldr. Rogina made a motion to adopt, as presented by staff, the Chronic Nuisance Property Ordinance as amended. Motion was seconded by Aldr. Martin.

Voice Vote:

Ayes: Monken, Turner, Rogina, Martin, Krieger, Bessner, Lewis

Nays:

Absent: Payleitner

Motion Carried.

Chairman Carrignan asked what the process is to be sure all landlords are using it. Ms. Jones said there is not an addendum involved in the code amendment, it is just adding violations. Chief Lamkin said it would be good to share the information at the landlord meeting.

Aldr. Martin made a motion to amend the original motion to revisit the Licensing Agreement in 6 months. Motion was seconded.

Voice Vote:

Ayes: Monken, Turner, Rogina, Martin, Krieger, Bessner, Lewis

Nays:

Absent: Payleitner

Motion Carried.

Aldr. Stellato rejoined the Committee.

3. ECONOMIC DEVELOPMENT

- a. Recommendation to retain Professional Services to undertake East Gateway Business District Eligibility Study.

Chris Aiston said last fall Staff started researching the opportunity to create a Business District pursuant to State Statute for east Main St. He gave a summary of the Scope of Services that was submitted to Committee proposed by Professional Consultants, Ehlers & Associates, and Mr. Aiston then showed a PowerPoint presentation which included the 3 initiatives that need to be taken to establish a district: Eligibility study, prepare a business district plan and the adoption of the business district. Mr. Aiston stated that the Business District is unlike a TIF District in that activities are funded through a new sales tax, whereas in TIF Districts activities are funded through incremental property taxes that would otherwise be directed to all the other taxing

districts and this is why school districts and park districts favor business districts over TIF districts as a tool for economic development. He said this has gained a lot of favor from other districts when enacted in communities as opposed to the TIF district. He pointed out that Ehlers & Associates had the lowest and most responsive bid but they are also subcontracted with Houseal Lavigne, who is the City's consultants for the Comprehensive Plan. He said the whole process would take about 4 months, and if the City finds it does not have an eligible district the contract can be bailed out of and just pay for phase I.

Nancy Hill-Financial Advisor for Ehlers & Associates-introduced herself and stated that they have vast knowledge and experience in business districts as well as TIF's and she feels the area proposed is a good candidate for a business district.

Aldr. Krieger made a motion to table this item until the reconstruction of Main St. /Route 64 is finished and until there is a boundary map that one can read. Motion was seconded by Aldr. Martin.

Voice Vote:

Ayes: Martin, Krieger

Nays: Stellato, Monken, Turner, Rogina, Bessner, Lewis

Absent: Payleitner

Motion Denied.

Mr. Aiston said he would be happy to get Aldr. Krieger a more legible map. Aldr. Krieger said this is the first time she is seeing the map because it was not part of the packet. Mr. Aiston said he appreciates the comment and that this same map was shown at the October meeting but that whatever the geography in question it will be one contiguous land area. The map is provided only for demonstration purposes.

Chairman Carrigan said he would like to understand the study and have some comparable data and see what condition East Gateway is in.

Aldr. Stellato said he agrees the map needs to be refined and that he feels the study should move forward and he wants to make sure everyone is on the same page along with the Comprehensive Plan and it needs to be clear in our goals of where the money is needed most. Mr. Aiston said point well taken and the money can only be generated from the district and only spent on property that would materially benefit within the district.

Aldr. Monken and Aldr. Turner both agreed with Aldr. Stellato.

Aldr. Rogina asked if there has been a poll taken from both citizens and businesses on the east side as to their support. Mr. Aiston said no, he thought about doing that but the merits of creating the buzz without knowing if the district is eligible may not be worth it. There will be a public hearing as part of the development plan.

Aldr. Martin asked if anyone has asked if the business there need help, and he sees this as an opportunity to build a bigger bureaucracy based on someone else tax fund and the City can employ people to buy, sell and manage property and he doesn't feel it's appropriate.

Aldr. Krieger said she is concerned about the additional sales/service tax, and fears people may choose to go elsewhere.

Aldr. Bessner asked what impact Charlestowne Mall would have on the future success of the district. Mr. Aiston said it has tremendous opportunity to affect the district and vice versa, he said this could create a funding source and the more the mall is full, the more sales tax is generated and that could serve to subsidize to fill empty space.

Aldr. Lewis asked if in regard to extra sales service/tax, if attorneys and accountants would be eligible. Mr. Aiston said professional services are not eligible for the tax, but those services as far as getting your hair or nails done can be taxed accordingly.

Mayor DeWitte asked if a user came in that was viable, could they benefit from funds available within the district and then have a sales tax incentive agreement attached as well. Mr. Aiston said that would be a free standing agreement that would go back to the 1% municipal tax.

Aldr. Martin asked where the \$25,000 for the study is coming from. Mr. Aiston said it is in the Economic Development budget under professional services and that this project was part of the budget consideration going back to last spring.

Aldr. Rogina asked if large purchases could be exempt. Mr. Aiston said titled vehicles are exempt by law and we do not want to discourage car dealerships because it's a tremendous district in town.

Aldr. Stellato made a motion to move forward and direct staff to present the package to City Council, including the detailed map. Motion was seconded by Aldr. Monken.

Voice Vote:

Ayes: Stellato, Monken, Turner, Rogina, Bessner, Lewis

Nays: Martin, Krieger

Absent: Payleitner

Motion Carried.

4. COMMUNITY DEVELOPMENT

- a. Recommendation to approve the Munhall School Final Plat of Subdivision (1304 and 1400 Ronzheimer Ave.).

Mr. O'Rourke reviewed the staff report dated 3/2/12 and stated staff recommended approval.

Aldr. Martin made a motion to approve the Final Plat of Subdivision for 1304 and 1400 Ronzheimer Ave. Motion was seconded and passed by unanimous vote.

5. FIRE DEPARTMENT

- a. Recommendation to consider amendment to City Code regarding Sprinkler requirements.

Chief Mullen said there are 3 specific proposed changes to the residential code of the City's adopted Building Code Manual; 1) request to defer the residential sprinkler equipment through the end of this year; 2) Reinstall in the code the fire protection tradeoffs in lieu of residential fire sprinkler and; 3) to establish a mechanism to consider some properties partially in development as exceptions.

Aldr. Stellato made a motion to approve amendments to the City Code regarding Sprinkler requirements. Motion was seconded by Aldr. Turner and passed by unanimous vote.

6. ADDITIONAL BUSINESS

- a. Update on the Comprehensive Plan Project-Information only.

Mr. Colby gave a brief update on the Comprehensive Plan Project.

7. ADJOURNMENT- The meeting adjourned at 8:55 p.m.