

**CITY OF BELLEVILLE, ILLINOIS
ORDINANCE AND LEGAL REVIEW COMMITTEE
CITY HALL COUNCIL CHAMBERS
SEPTEMBER 13, 2016 6:00 PM**

Alderman Wigginton called the meeting to order.

Aldermen present on roll call: Alderman Kinsella, Alderman Pusa, Alderman Galetti, Alderman White and Alderman Wigginton.

Members Present: Mayor Eckert and City Attorney Hoerner.

PUBLIC PARTICIPATION

Michael Hagberg

Asked for a show of hands from the aldermen as to who has picked up the new codification books. Asked for a show of hands from the aldermen on who has read it cover to cover. This is what is being passed. Anything that is in the book is code and anything that has been taken out is no longer a code. Although there were ordinance before that got deleted that means it's no longer code.

Two months ago, he asked for the draft to be posted on the website and it was; however, the draft has a number of sections that were removed from the final version that has been delivered to the aldermen.

All in all, he is very disappointed in what was promised from American Legal Publishing and what was delivered. The city was told they had a group of 16 lawyers that were going to go through every line of the ordinances and make comments and clean it up e.g. open burn. There is a paragraph in the code regarding the history of open burn. All it needs to say is opening burning is not permitted in Belleville. That fives ago you could burn on certain days.

In the final version, the assistant city clerk and the assistant treasurer sections are just gone. Those are no longer ordinances. Who was behind taking those out and why?

He would like the final draft posted back on the website with ample time for the public to review.

Rick Brown

Ordinance 7667 has been blown out of proportion by the media. Everyone is making comments. He will stipulate Ordinance 7667 was passed legally; however, he will also stipulate that Ordinance 7667 was to clarify that each and every dwelling in the city that you must have the names of the occupants on the occupancy permit. This was not meant for inspections when people move in or back in.

What happened 14 months ago is Bob Sabo, on his own, without an ordinance started when someone needed to be added to the occupancy permit i.e. child, sick adult, marriage an inspection was needed by a public official. This is an illegal search. The fee is \$60/inspection and \$50/occupancy permit. This is an existing occupancy. We are not talking about a vacant house that was sold.

At the meeting on February 6th it was specifically stated "will I need an inspection to have someone move in on an existing occupancy". (*Mr. Brown played a video*) No fee and no inspection on an existing occupancy when a name is added. An inspection is a search of within the meaning of the 4th Amendment.

Director of Health and Housing, Bob Sabo, stated when Mr. Hagberg was speaking about the occupancy permits was pre-1988. The discussion was pre-1988 to after 1988. If you lived in your home prior to 1988, prior to the ordinance change in 2013. All that is required is the bedroom measurements. Regarding the fee...this is a separate \$25/fee to add someone.

MINUTES

Alderman Kinsella made a motion seconded by Alderman White to accept the minutes of July 13, 2016.

All members present voted aye.

UNFINISHED BUSINESS

Consideration of AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF BELLEVILLE, ILLINOIS, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY

Alderman Wigginton recommended tabling this until everyone has time to review. City Attorney Hoerner stated there is not a timeline regarding the proposed ordinance. The changes received from American Legal and Publishing were submitted from the various departments.

Alderman Randle requested to have the CSOs deliver the books; Mayor Eckert stated that can be done before Friday.

Alderman Galetti made a motion seconded by Alderman White to table until the October 11, 2016.

Discussion...

Alderman White would like to see this move forward.

All members present voted aye.

Discussion concerning Chapter 33, Article II (Certificate of Occupancy) of the City's Revised Code of Ordinances

City Attorney Hoerner stated this was addressed at a ordinance and legal review committee meeting on December 11, 2012. There was a discussion concerning the proposed amendment. It appears based on the minutes there was a provision that would give one year to add a newborn child on the occupancy permit. The most important thing to focus on is what does the ordinance require. City Attorney Hoerner reviewed Chapter 33. Anytime you have a change, including the names on the occupancy permit, then that triggers a new application stated as the law is written. An inspection should be valid for one year, a dwelling unit does not have to be re-inspected during that year even though the occupancy changes.

The chapter reads a change in occupancy triggers the application process. Which if beyond a year wouldn't necessary trigger the inspection process. What the city does in practice is not enforce the ordinance the same way all the time. Circumstances are different and there is nothing inappropriate about how you decided to enforce since discretion is used. With respect with what they do in practice and the interpretation that Mr. Sabo had with Chapter 33-2-2(b) is consistent with what he was told by the city attorney at that time and City Attorney Hoerner concurs.

Director of Health and Housing, Bob Sabo, stated after the ordinance came into effect he had a meeting with the staff regarding how the ordinance would be enforced. There were certain stipulations that were discussed. He stated they have discretion to be used in different ways. If someone came in and wanted to add a new born they would be issued a new occupancy permit and would not be charged.

Alderman Wigginton asked Mr. Sabo about complaints received; Mr. Sabo stated some of the landlords complain. Mr. Sabo stated if the city would like to take the discretion away that would be great and make their jobs a lot easier. If someone does not agree with the decision they can appeal.

Alderman Anthony stated prior to 1988 the only thing that would be requested is bedroom measurements. Mr. Sabo stated if the house is sold the new owners would have to comply with the new requirements. In some cases, the houses date back to the 1950s have never been inspected. Alderman Anthony stated after 1988 what type of inspections; Mr. Sabo stated they send in an inspector and if they see anything that has been changed he will call in the techs.

(Alderman Galetti leaves at 6:50 p.m.) Alderman Galetti stated he is good with the current ordinance.

Alderman White asked for an explanation of the appeal process; Mr. Sabo stated it is in the 2006 Property Maintenance Code. The person appealing has 20 days to submit a letter objecting. Since Mr. Sabo has held the position (four years) he has had three appeals.

City Attorney Hoerner stated there are numerous cities in the State of Illinois that have occupancy ordinances.

Rick Brown (2 minutes)

The inspection is good for the year. If this ordinance was passed on February 19, 2013 by the council why didn't Mr. Sabo implement it on that date. The new policy of when family members move back in was implemented four months ago. Mr. Sabo stated when Mr. Brown came in it was discussed about the occupancy permit that was changed back in 2013. The department had a new employee and she did not fully understand the provisions of the occupancy permit; however, that has been resolved. Mr. Brown stated no other city in the county makes an inspection for adding someone to the occupancy.

Alderman Randle asked what constitutes an illegal search; City Attorney Hoerner stated the issues associated with search under the Fourth Amendment for housing inspection are different than criminal...it's a lesser standard. City Attorney Hoerner stated he asked Captain Eiskant and he stated they do not do inspections with additions to the occupants.

Alderman Pusa stated she has never received a call regarding inspections.

Alderman Randle asked Mr. Brown what does he want; Mr. Brown stated he wants the people of this city that have a legal occupancy and have had an inspection and when they have to take care of their family is to add them to their occupancy permit. Possession doesn't change. Possession is the people authorized to be there. City Attorney Hoerner stated Mr. Brown is incorrect. If you read the section in its entirety (if there is a new occupant there is a change in occupancy). A tenant is an occupant.

Alderman Kinsella stated he does not see any changes are necessary. Alderman Kinsella stated Mr. Brown has been given a full hearing; however, he does not agree with the interpretation.

Mayor Eckert stated a healthy discussion has been held. Mayor Eckert stated Mr. Brown has been very hard on Mr. Sabo publically. Mayor Eckert stated Mr. Sabo took harsh comments at many meetings.

Alderman Wigginton stated the city does not have a rogue housing director. City Attorney Hoerner stated this is the law, this is the ordinance. The department heads need to be given leeway to run their departments. If not, why are there departments.

Alderman Wigginton stated Mr. Brown is the only individual that has brought this up time and time again.

Alderman Wigginton does not deem necessary to send to council.

MISCELLANEOUS & NEW BUSINESS

**Consideration of AN ORDINANCE AMENDING CHAPTERS 50, 51 TITLE 15
CHAPTER 161 (SUBDIVISIONS)**

Director of Wastewater, Royce Carlisle, explained the penalties and fines which would be associated with commercial/industrial properties. This is mandated through IEPA. A pre-treatment ordinance is required and within that ordinance there are certain items i.e. Peerless Premier, Weyerhaeuser, Rausch Enamel, Empire and Quality Plating. During an audit in 2015 the USEPA was present to review the ordinances and they found that the city's fines and penalties were too low. Mr. Carlisle stated none of the businesses have been fined.

Alderman White made a motion seconded by Alderman Pusa to approve amending Chapters 50, 51 Title 15 and Chapter 161 (subdivisions).

All members present voted aye.

ADJOURNMENT

Alderman White made a motion seconded by Alderman Pusa to adjourn the meeting at 7:23 p.m.

All members present voted aye.

/s/ Roger Wigginton
Alderman Roger Wigginton, Chairman