

COMMITTEE OF THE WHOLE
WEDNESDAY, MAY 17, 2023 | 3:30 PM
COUNCIL CHAMBERS
COUNCIL PRESIDENT WARDINE T. ALEXANDER, COMMITTEE CHAIR

MINUTES

Councilor(s) Present: Alexander, Abbott, Moore, O'Quinn, Smitherman, Tate, Williams, Woods

I. CALL TO ORDER

The Meeting was called to order by the Committee Chair, Council President Alexander.

II. APPROVAL OF MINUTES

Action Taken:

Councilor Abbott Motioned to Approve.

Councilor Smitherman Seconded the Motion.

The May 17, 2023 Committee of the Whole Meeting Minutes were approved as recorded.

III. MUNICIPAL COURT ENVIRONMENTAL CODE UPDATE – ANDRA D. SPARKS, PRESIDING JUDGE, MUNICIPAL COURT

Judge Sparks, Artemus Willis, Attorney King presented information to the Committee.

Artemus Willis discussed some of the common code violations, including the process of handling the violations:

Common Complaints:

- Overgrown vacant lots
- Inoperable vehicles
- Dilapidated structures
- Trash/dumping/litter
- Outside storage
- Parking violations
- Various zoning violations

Process:

Complaint Received

Perform an inspection of the current violation.

A violation notice is mailed via Certified Mail.

Await a response from the property owner.

The property is then reinspected to see if it has been abated.

If it has been abated, the case is closed. If it has not been abated, Code Enforcement moves forward with the next process.

Violations:

Inoperable Vehicles

Overgrown lots

Condemnation/Demolition

These violations are abated by the City Council, declaring them a public nuisance.

A third-party vendor is contracted to abate the property.

Additional Violations:

Housing Property Maintenance

Junk Yards

Zoning Violations

These violations go through Municipal Court for fines and penalties for non-compliance.

MINUTES

Municipal Court cannot mandate abatement of property. Therefore, certain property cases are better resolved in Circuit Court.

For non-compliant cases not routed to the City Council for third-party abatement, after a second inspection, the following steps are followed to proceed to Environmental Court:

- Deposition is done.
- Court date is scheduled.
- Service and a court hearing is set.

Many of the provocations are not resolved due to the following challenges:

Widespread lack of awareness on property owner responsibilities

Identifying responsible party

- Notices are ignored or are undeliverable
- Violations are not corrected due to confusion, lack of resources
- Ignorance of the law; ignoring summons for courts, not showing up for courts, etc.

Code Enforcement has created a Problem Property Dashboard. The dashboard will identify the 100 cases and provide updates and photos.

Code Enforcement Next Steps:

- Creating a top problem property public facing dashboard
- Strategically drive compliance on problem property
- Coordinate with OPI for a robust educational campaign.

Nicole King, Office of the City Attorney (OCA) discussed the role as the prosecution team and what they do for criminal remedies for Environmental Court.

OCA relies on a partnership with several entities within Code Enforcement, such as Housing, Zoning and Environmental divisions.

Results of the investigations are then presented to the Magistrate, for a probable cause determination.

Summons are then prepared for service on the defendant.

Summons are issued by the Magistrate with a specific date and time for the defendant to appear. This is the defendant's first setting on the matter.

Summons must be properly served by an APOST certified law enforcement officer.

Once the Defendant is served and the first appearance date has been set, the Defendant will be advised of the violation(s) alleged against him or her.

The Defendant will then see photographs and hear testimony from the City's inspector regarding: the condition of the property, number of site visits, and what is necessary to bring the property into compliance.

The OCA prosecutor will evaluate the case and make a recommendation to the court.

Some of the recommendations include fines and/or jail time, based on the Code Enforcement's investigation.

The Defendant is initially given a timeframe to fix the property (30 - 60 days).

The Court resets the matter far enough to allow for the proper repairs, and other corrective measures.

OCA Next Steps

Because the environmental cases are increasing, OCA has created the OCA Environmental Court Team. The team consists of three Prosecuting Attorneys, two Court Services law enforcement officers, and a designated paralegal.

OCA has prevailed on several civil actions in Circuit Court involving drug nuisance properties.

Judge Sparks presented additional information to the Committee

The first line of dealing with citizens when there is a violation is to give them an opportunity to resolve it.

Once the complaint is filed and the inspection goes forward, there is a violation notice provided to the citizen.

The citizen is then given the opportunity to resolve the complaint; usually a 45-90 day time period depending on the complaint.

Once Code Enforcement goes back for re-inspection, their standard is going to be 100% compliance or move forward with the court process.

Once it reaches the court process, the petition is filed with Magistrate to begin the court process.

Once probable cause is established, the case is then ready for service of process.

MINUTES

Once the matter is officially served, the complaint can be set for a hearing in Court.
Failure to complete service of process tops the enforcement action in Municipal until this issue is resolved.

Court Action Taken:

If the Defendant pleads “not guilty,” the case is set for trial on the next available date.

If the Defendant pleads “guilty,” the court determines an appropriate period of time to resolve the violation.

The Code Enforcement Team is going to create a dashboard, citing all current problems/issues.

The violations can be viewed publicly.

A robust educational component will be implemented.

A pilot program has been implemented for e-filing cases to improve efficiency.

Action Taken:

Councilor Williams Motioned to ask the Court to provide the Council with a list of cases and aggregates per judge; not identifying individual defendant, but all cases assigned to the particular judge(s), and the outcome of the cases (for an annual basis).

Councilor Smitherman Seconded the Motion.

Councilor O’Quinn stated that he is a NO on the budget until the remaining Councilors are satisfied with the budget issues.

IV. **OLD/NEW BUSINESS**

None

V. **ADJOURNMENT**

Councilor Tate Motioned to Adjourn.

Councilor Williams Seconded the Motion.

Meeting Adjourned.