

CITY COUNCIL CHAMBERS
SPECIAL MEETING – OCTOBER 24, 2018
7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL: Members present were Councilmembers Ken Lebbin, James McCormick, Steve Oelke, Jon Prescott, and Mayor Irlan Fullbright. Councilmember Kirk Clawson was absent. Also present was Mary Jo Cunningham representing the Ellinwood Leader. Also present was Robert Peter, City Attorney

C. VISITORS: Brian Treaster, Chance Bailey, Chris McCord, Howard Herter, Brian and Kristin Stout, Judy Hayes, Ron Cunningham, Spencer Proffitt, Jacque Isern, George Martin

D. NEW BUSINESS:

1. Public Hearing Regarding 106 West 4th: At the September 11, 2018 council meeting the property at 106 West 4th was considered as being potentially unsafe, dangerous or dilapidated and a resolution was subsequently adopted setting a time and place for public hearing where the owner, his or her agent, lien holders or occupants may appear. Notice of this hearing was provided to the owners, lien holders, and any occupants as required by city ordinance and Kansas statute.

The Governing Body shall hear all evidence submitted by the owner, his or her agent, lien holders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make its findings by resolution.

City council has reviewed the letter to the property owner and staff has provided pictures of the property to the council.

A Public Hearing was held on the proposed unsafe, dangerous or dilapidated structure at 106 W. 4th. Staff explained the property is owned by the estate of Mae Sanders but no probate proceedings have been filed. Legal counsel informed council that probate would need to be done to clear up title on the property if the property is to be transferred to the city or a third party without going to Sheriff's sale, since Mae Sanders, the owner of record is deceased. (Also, see comments made below regarding the property located at 518 East 4th Street, Ellinwood). Chris McCord was present at the meeting representing the owner of the property, however he had no comments on this property. The following items were reviewed:

- a) Overgrown trees and downed tree limbs are blocking access to the entire front portion of the house.

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- b) Front porch steps have rotted and the porch ceiling has deteriorated to the point it is falling in.
- c) Rain gutters and drip edge on all sides of the structure have rotted away from the fascia and are now hanging from the roof.
- d) There is a broken window on the east side and the door is open with only a sand bag securing the screen door allowing an offensive odor to emit from the interior of the structure and allowing access to the public and rodents which makes it a health and safety hazard.
- e) On the north side of the structure there are overgrown trees growing into the side of the house and piles of yard waste.
- f) There are multiple holes in the roof causing the roof to leak.
- g) On the north side of the main structure is a detached garage with large holes in the roof and both garage doors. The siding and fascia are rotted and falling off of the garage.

Howard Herter, a neighbor that lives across the street from the structure, stated the property has been deteriorating over the last 10 years and is a safety and health hazard as well as an eyesore in the neighborhood.

George Martin, the adjoining property owner re-iterated the same concerns as Mr. Herter.

The conditions noted above are injurious to the health, safety and quality of the neighborhood and the property has a blighting influence on the adjoining properties.

A motion was made by Councilmember Jon Prescott to find the structure located at 106 West 4th unsafe, dangerous, or dilapidated for the reasons stated above and hereby directs such structure to be removed and the premises made safe and secure. Motion seconded by Councilmember Ken Lebbin. Motion carried. All present voting in favor.

2. Public Hearing Regarding 518 East 4th: At the September 11, 2018 council meeting the property at 518 East 4th was considered as being potentially unsafe, dangerous or dilapidated and a resolution was subsequently adopted setting a time and place for public hearing where the owner, his or her agent, lien holders or occupants may appear. Notice of this hearing was provided to the owners, lien holders, and any occupants as required by city ordinance and Kansas statute.

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The Governing Body shall hear all evidence submitted by the owner, his or her agent, lien holders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make its findings by resolution.

City council has reviewed the letter to the property owner and staff has provided pictures of the property to the council.

A Public Hearing was held on the proposed unsafe, dangerous or dilapidated structure at 518 East 4th. Staff explained the property is owned by the estate of Mae Sanders. If the property is to be transferred to the city or a third party, legal counsel recommended that probate proceedings be commenced to clear title to the property, since Mae Sanders, the owner of record is deceased. Mr. Peter also explained that by doing probate on this property, it could also clear title to the property on 106 West 4th, since the owner of record is the same. Mr Peter explained to council, probate could take up to 120 days to complete. Chris McCord was present at the meeting representing the owner of the property. Mr. McCord is interested in acquiring the property and cleaning it up and would be responsible for the back taxes as long as the City would be responsible for the cost of probate on the property. Mr. McCord also feels like the heirs of Mae Sanders would be willing to work with the City to transfer the title to the property on 106 West 4th to the City. The following items were reviewed:

- a) The front of the structure has overgrown vegetation, flaking paint on the facia, and debris piled up on the front porch.
- b) The front door is secured only by a screen door allowing offensive odors to emit from the structure. There is also a large pile of trash by front door.
- c) Waist high debris can be seen in the living room of the residence through the screen door.
- d) The roof of the structure is deteriorated.
- e) On the east side of the residence the soffit is rotted and falling down.
- f) The detached garage northwest of the main structure has large holes in the entry door and the roof also appears to be leaking.
- g) There are also two deep holes in the back yard.
- h) Property is an environmental hazard because of human feces and extreme amount of trash inside the property.

Council discussed the possibility of avoiding the costs of probate and waiting for the property to come up on Sheriff's sale. Mr. Howard Herter expressed concern to the council that if the City waits until the Sheriff's sale there is always the chance the property could be purchased from someone else and the

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new owner would do nothing to maintain it, and the City would have to initiate condemnation proceedings again.

The conditions noted above are injurious to the health, safety and quality of the neighborhood and the property has a blighting influence on the adjoining properties.

Council inquired of Chris McCord his intentions and timeline of cleaning out the property, securing the property and making needed repairs to the property. Chris McCord explained his “phase one” of the project would be to clean out the interior and exterior of the property and secure the property to make it safe and then start with the repair of the roof. Council inquired as to the possibility of completing this project by December 31, 2018 and Mr. McCord thought it would be feasible to complete the project by then.

A motion was made by Councilmember Ken Lebbin to find the structure located at 518 East 4th unsafe, dangerous, or dilapidated and a health hazard for the reasons stated above and hereby directs such structure to be repaired and grants Mr. Chris McCord until December 31, 2018 to clean out the interior and exterior of the property, secure the property and make needed repairs to the roof of the property and if not completed by December 31, 2018 then condemnation will continue. Motion seconded by Councilmember Jon Prescott. Motion carried. All present voting in favor.

A motion was made by Councilmember Ken Lebbin to authorize Robert Peter to draw up contracts between Mr. Chris McCord and the estate of Mae Sanders and initiate probate proceedings. Motion seconded by Councilmember Jon Prescott. Motion carried. All present voting in favor.

3. Public Hearing Regarding 404 E. 4th: At the September 11, 2018 council meeting the property at 404 East 4th was considered as being potentially unsafe, dangerous or dilapidated and a resolution was subsequently adopted setting a time and place for public hearing where the owner, his or her agent, lien holders or occupants may appear. Notice of this hearing was provided to the owners, lien holders, and any occupants as required by city ordinance and Kansas statute.

The Governing Body shall hear all evidence submitted by the owner, his or her agent, lien holders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make its findings by resolution.

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City council has reviewed the letter to the property owner and staff has provided pictures of the property to the council.

A Public Hearing was held on the proposed unsafe, dangerous or dilapidated structure at 404 East 4th. The house was partially destroyed by fire in April, 2016 and the roof is caved in. The property is beyond repair. The house has not been secured and various parts of the house are structurally unsound. The property also creates a health hazard in the neighborhood.

The conditions noted above are injurious to the health, safety and quality of the neighborhood and the property has a blighting influence on the adjoining properties.

A motion was made by Councilmember James McCormick to find the structure located at 404 E. 4th unsafe, dangerous, or dilapidated for the reasons stated above and hereby directs such structure to be removed and the premises made safe and secure. Motion seconded by Councilmember Steve Oelke . Motion carried. All present voting in favor.

4. Public Hearing Regarding 610 N. Hirsch: At the September 11, 2018 council meeting the property at 610 N. Hirsch was considered a potential health nuisance and potentially unsafe, dangerous or dilapidated and a resolution was subsequently adopted setting a time and place for public hearing where the owner, his or her agent, lien holders or occupants may appear. Notice of this hearing was provided to the owners, lien holders, and any occupants as required by city ordinance and Kansas statute.

The Governing Body shall hear all evidence submitted by the owner, his or her agent, lien holders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make its findings by resolution.

City council has reviewed the letter to the property owner and staff has provided pictures of the property to the council.

A Public Hearing was held on the proposed health nuisance and unsafe, dangerous or dilapidated structure at 610 N. Hirsch. The following items were reviewed:

- a) Strong, offensive smell emanating from the residence. The strength of odor depends on the outside temperature.
- b) Extensive fly infestation around house.

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- c) Windows are in bad shape and covered with cardboard.
- d) The storage shed on property has a hole in the roof and is structurally unsound.
- e) Brush is growing up around property
- f) Ellinwood Municipal Court judge has entered numerous orders and extensions of time to abate the conditions existing on the property.

Brian and Kristin Stout, adjacent neighbor to the north, were present at the hearing and told council the offensive smell prevents them from opening windows of their house, enjoying outside areas of their property, and is also penetrating into their residence. Stouts also explained their son is very allergic to cats and was affected by the number of cats that were housed in the residence.

Robert Peter informed council that Tom and Chris Wornkey, adjacent neighbor to the west, have voiced the same concerns noted above, during municipal court. Mr. Wornkey has also expressed to city staff that he feels like the property is de-valuing properties in the neighborhood.

Robert Peter informed council that Marla Macy, adjacent neighbor to the south, has also expressed in municipal court that they can't use their patio or sit on their porch.

An Ellinwood mail carrier has also complained about the offensive odor emanating from the residence.

James McCormick, city council member, who resides a block away from the residence to the north informed council that he can smell the odor at times.

Robert Peter, legal counsel advised city council that Judge Isern, in the last court proceeding gave Mr. Hickel until November 25, 2018 to hire a professional cleaning company to clean the property. Mr. Peter also re-iterated that this issue was initiated by neighboring property owners and not the City of Ellinwood.

The conditions noted above are injurious to the health, safety and quality of the neighborhood and the property has a blighting influence on the adjoining properties.

A motion was made by Councilmember Ken Lebbin to find the property at 610 N Hirsch in violation of Article 2 - Health Nuisances, Section 8-201(c) which states "any place or structure or substance which emits or causes any offensive,

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disagreeable or nauseous odors”, and also in violation of Article 2A-Environmental Code noting the deterioration of the accessory building in the back yard, causing a blighting influence on adjoining properties and are injurious to the health and safety of the residents of the City of Ellinwood and the governing body desires to promote the public health, safety and welfare by the repair, removal, abatement and regulation of such conditions. The motion also includes noting the presence of flies, feline feces, trash, and intense ammonia odor emitting from the house, as documented by law enforcement. The above conditions are to be abated by November 25, 2018 and if not completed by that date, the city will take action to abate the nuisance. Motion seconded by Councilmember Jon Prescott. Motion carried. All present voting in favor.

- E. **ADJOURNMENT:** There being no further business at this time, a motion was made by Councilmember Jon Prescott that the meeting be adjourned, seconded by Councilmember Steve Oelke. Motion carried. All present voting in favor.

Irlan Fullbright, Mayor

Kim Schartz, City Clerk