



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes - Final MOBILE HOME STUDY TASK FORCE

ALD. TERRY WITKOWSKI, CHAIR

Dan Daniels, Ross Kinzler, and Tom Wessel

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Thursday, June 25, 2009

1:30 PM

Room 303, City Hall

Meeting commenced at 1:33 p.m.

Present 4 - Witkowski, Daniels, Kinzler and Wessel

1. Review and approval of the minutes of the May 28th meeting.

Mr. Wessel pointed out that in page three in the fourth paragraph discussing Chapter 246-82 and Neighborhood Services, Chapter 64 should be Chapter 246.

With that correction, minutes were approved.

2. Presentation by Assistant City Attorney Bruce Schrimpf and Deputy City Clerk Jim Owczarski on alternatives to the current process of licensing mobile home parks.

Individuals appearing: Deputy City Clerk Jim Owczarski, Ron Roberts and Art Dahlberg of the Department of Neighborhood Services, Asst. City Attorney Bruce Schrimpf and Ryan Guthrie of Pioneer Mobile Homes.

Mr. Owczarski said that the process is very linear and very strict as it pertains to the licensure of the mobile home parks. Once the approval of DCD and DNS has been given, issuance of the renewal license is a ministerial act of the City Clerk's office.

Mr. Owczarski said that there is no discretionary authority of the city clerk's office when it comes to the licensing or renewal of the mobile home park licenses. He said the code of Appleton, Maine is an example of what he would expect the ordinance to look like in the context of the Milwaukee Code of Ordinances.

Mr. Owczarski said that in the town of Appleton's code, the responsibility for the care and maintenance of the mobile home park rests with the owner of the park, not with the owner of the mobile home. The code also requires that a certificate of inspection listing any and all defects must be signed off by the current owner and new owner before a sale can be completed. It also includes a series of safety standards, not just building codes. There is also a list of shared responsibilities and standards between park owners and mobile home owners in the ordinance.

Mr. Owczarski said that the town of Appleton has a very simple appeals process requiring that if someone has a complaint about the city's actions, the complainant would have to go to circuit court without any internal appeals process. He said that

the code does not have the kind of critical apparatus the city of Milwaukee would expect to see in terms of the appeal process. It also does not establish what the penalties are, save fines and forfeitures, when it comes to revocations and suspensions.

Mr. Owczarski said creation of legislation regarding licensing would have to be turned over to a drafter and it would have to be approved by the Common Council after review by the council and the city attorney's office.

Mr. Daniels said that a lot of the standards included in the Maine code are already included in that of Wisconsin regarding things like sewer and water standards. He said that the problems in the mobile home parks seem to be with an individual landlord who is not doing the right thing. Mr. Kinzler said that if home sales were stopped, that might result in a lot of abandoned homes if the seller has to make repairs before it can be sold even if the seller may not be able to fix the home when the buyer could. If there is no alternative, such as a temporary occupancy permit, the only option left could be abandonment of homes if sales are stopped.

Mr. Dahlberg said that an inspection of the property before the sale means that it can become a negotiation point during the sale. But if there is not a life-threatening safety issue discovered after a preliminary inspection, a temporary occupancy permit can be issued that will allow the sale.

Mr. Kinzler asked Mr. Owczarski about Chapter 246-6. He said that there are a lot of things that do not change from year to year and would not need yearly inspections. He asked if there was any way that the license period for mobile home parks could be for more than one year. Mr. Owczarski said that the section to which Mr. Kinzler was referring deals with inspections that only occur when a mobile home park is licensed for the first time. Mr. Wessel said that a section that pertains only to the maintenance inspection required at renewal time could be put into the code.

Mr. Owczarski said that occupancy of a mobile home by a tenant is not allowed if it does not meet the same standards those required in a pre-sale inspection. He said that a mobile home goes through an annual inspection when it is being used for rental purposes; however, rental units get one treatment while owner occupied units get a different treatment in the ordinance with regard to inspections.

Mr. Wessel said that the mobile homes that receive the most complaints and attention from the Department of Neighborhood Services are rental units. Ald. Witkowski said that adjustments in the code should be focused on this issue.

Tom Wessel said that a new provision could be put into the code that requires an occupancy permit when a new trailer is put on a park site. He said that a new occupancy permit requirement could allow the city closer regulation. Mr. Owczarski said that this provision is found in the Appleton, Maine code.

Mr. Kinzler said that the problem should be addressed first is the continual turnover of rental units or the conversion of rental units to owner-occupied for the purpose of avoiding city orders. Mr. Daniels said that the issue of a problem property owner giving away mobile homes is what the task force is trying to fix.

Mr. Wessel said that some park residents are living in substandard conditions because they have responsibilities regarding the problems with the trailers since they own the trailers and no longer just lease them.

Mr. Dahlberg said that requiring a certificate of occupancy before anyone moves into

the mobile home, whether the trailer is for sale or for rental, is a change that should be made so there is an ability to pull the certificate. If there is no occupancy permit, no one can live in the mobile home.

Mr. Owczarski said that the task force should take up what gets a license into a hearing situation and having a graduated scale of penalties other than fines that takes action against the park owners short of kicking people out of mobile homes.

Mr. Dahlberg said that there needs to be a analysis of what kinds of calls for service are being attributed to which parks and which can be attributed to the park owners who do not hold residents accountable for their behavior.

Mr. Schrimpf explained the nuisance procedure used by the city for problem properties. He did say that the documentation of nuisances by the police department can be an issue, but when it is used it is very effective. He said that it is a tool for dealing with problem mobile homes.

Mr. Kinzler said that eviction from a mobile home park is currently for a specific mobile home address, not the park itself. So a problem mobile home owner or tenant can move to another mobile home on the park property.

Mr. Schrimpf said that the standard Wisconsin commercial lease has provisions in it prohibiting behavior like illegal activity. He said that property owners would have to cooperate and adopt usage of this lease and enforce it, which some are not.

Mr. Kinzler suggested that the city provide nuisance letters to the park owners so that in some cases the park owners could use them for an expedited eviction. He said that he would like to avoid putting a new burden on the mobile home park owners without giving them the tools to enforce the code.

Mr. Daniels said that a particular mobile home park owner does not do background checks and he asked if that would qualify as a nuisance.

Mr. Schrimpf said that what should be analyzed is conduct, which requires a documented track record. If action is taken based on the person's past reputation, there could be trouble with regard to discrimination laws.

Mr. Daniels asked if the process is geared toward preventing some homeowners from becoming a problem in a community. Mr. Kinzler said that a problem tenant can cost \$4000 in liability when an eviction must be performed. He posed the question of whether the screening of applicants could be put in the ordinance as a requirement of park owners.

Mr. Kinzler asked Mr. Schrimpf is there could be any provision put in the ordinance to give homeowners repair orders directly instead of giving orders to the park owners?

Mr. Roberts said that local ordinances can be superceded by the state. All ordinances are designed to regulate owners of the mobile home park for tax purposes and because the city has accurate records of who owns the park itself. The city has no specific documentation on the occupants of the homes.

Mr. Wessel said there are tax records when there is a specific owner of a specific mobile home. Mr. Wessel wanted to know if tax records would be acceptable in court if the Department of Neighborhood Services wrote orders based on the information. Mr. Schrimpf said that the city could try it and see if the municipal court accepts.

Mr. Schrimpf said that the state regulates to a great extent and the normal theory is that the city entering into this area would be preempted by the state. The state has given agent status to DNS, which means that Neighborhood Services is really enforcing the state code, not the city code. Mr. Schrimpf suggested amending the state code to make gifting a trailer the same as a sale.

Mr. Kinzler said that the level of gifting that is going on at one mobile home park makes it really the business of selling. The state regulates the transfer of titles, so gifting is state territory.

Ald. Witkowski wanted to know how to craft an ordinance that creates a penalty for overuse of city services and being a problem property.

Mr. Schrimpf said that he agrees that suspension and revocation of a mobile home park license is not practical. He said that expansion of the nuisance procedure is the easiest way because the city is making an onerous effect on the premises operator and requiring an abatement plan. Making improper management expensive for the park owner is the best way.

Mr. Daniels asked Mr. Schrimpf if there was a way to make gifting illegal when there are orders pending.

Mr. Roberts said that the city would have to be made aware that there is a timetable in place for a transfer of mobile home. If the city is notified that a transfer is pending, it can impose a requirement for an occupancy permit. DNS would allow a sale if there is a form of disclosure in which all violations are identified and if the buyer knows of all orders and compliance can be required.

Mr. Schrimpf said that a fraudulent transaction is described in state statutes. In the new ordinance, a fraudulent transaction would be described as being done without an inspection or a certificate of occupancy. The transfer of a trailer that fails to meet code would be a fraudulent transaction.

Mr. Kinzler said that he believes that the definition of fraudulent transactions needs to be expanded to private sales and transactions, not just dealer transactions.

Mr. Roberts said that he sees the city using the agent agreement to get consent from the state to enforce a litany of local ordinances.

Mr. Owczarski said that Chapter 80-10 of the Milwaukee Code of Ordinances could be crafted in such a way that a park owner could find himself charged for police visits and other city resources.

Mr. Schrimpf said that a declaration of a park as a nuisance property under Chapter 80-10 could be made a cause for revocation of a mobile home park licenses.

Ms. Turk said that she would work on adjustments to Chapter 80-10.

Mr. Schrimpf said that suspension of mobile home park licenses is not really feasible due to the amount of tenants living at the mobile home park.

Mr. Wessel asked if a conditional license with a limited term could be issued with conditions. If the conditions of the license were fulfilled within sixty days, a full revocation of the license would result. Mr. Schrimpf said that it is possible to do this and suggested that the interim licensure be constructed very parallel to the changes in Chapter 80-10 and the two provisions between 80-10 and the interim licensing

procedure would have to complement each other.

Mr. Roberts said that a conditional license would show progressive enforcement and would strengthen the case for revocation by providing evidence that the city has made progressive efforts towards discipline.

Mr. Owczarski asked what triggers the need for a conditional license and what would be given to the Licenses Committee to prompt an issuance of a conditional license. Mr. Roberts said that some language would be put in 80-10 detailing what types of police calls, physical conditions and behavior would prompt an objection from DNS and a request for a conditional license.

Ald. Witkowski asked if the cost of the license could be increased due to the increase in resources that will be used to make sure that the conditions of the license are being abided by. Atty. Schrimpf said that the cost of resources used for things like inspections can be shifted to a licensee.

Mr. Kinzler said that inspection fees are not limited by the state statutes, so even though the cost of the license is regulated by the state statute, the inspection fee from the city can be increased.

There would be a fee every time an applicant applies for a mobile home park license, which would only be a concern for someone who had conditional licenses that did not last a two-year period.

Mr. Schrimpf said that there could be a complaint from owners about being held accountable for the actions of their tenants.

Mr. Daniels said that a shortened license could be an effective way of keeping the problem park in line.

There was no objection to creating a license that lasts only six months.

3. Review of the proposed adjustments to Chapter 246 of the Milwaukee Code of Ordinances.

Tom Wessel said that there were additional adjustments made to Chapter 246:

Mr. Wessel said that with regard to campgrounds, if Chapter 264 is eliminated, the adoption of the state code is needed because it is still what Environmental Health and Nuisance is using to inspect the campgrounds.

Mr. Kinzler said that Zoning requests that the second half of Chapter 246-2.9 be kept, along with 246-2-10 and -11. Number four in that same section should be kept.

The adjustments to Chapter 246 from this meeting and the previous meeting were accepted unanimously by the task force members.

4. Report of Tom Wessel on the comparison between mobile homes with violations and mobile homes that recently underwent title transactions.

Mr. Kinzler said that a lot of the transactions between mobile home owners were very difficult to trace due to small differences in names and addresses. He also said that one home was sold within fifteen days but the serial number of the home was different by one number.

Mr. Wessel said that he had a sample of a lease that has a condition report that was signed off even though there were orders on the property being sold.

Mr. Kinzler said that the law prohibits a business from posing as a private party by putting an ad in the paper without the business name.

Mr. Wessel said that DNS will refer sales that the city suspects violates the law to the state for investigation.

5. Report of Ross Kinzler on new definitions in Chapter 246.

The definitions proposed by Mr. Kinzler were reviewed.

Mr. Kinzler said there will need to be some definition of a manufactured home and a manufactured home community. He also addressed the question of whether temporary placement of recreational vehicles will be permitted and whether the placement would be limited to a number of days or sites.

Mr. Wessel said that the number of recreational vehicles would be permitted up to and no more than three. More than three vehicles qualifies the area as a campground.

Ald. Witkowski asked if a time limit for the parking of the vehicles should be imposed, such as a minimum of one month and a maximum of three months.

Mr. Kinzler said that definitions are not that important now; only when the adjustments to Chapter 246 are completed.

6. General discussion of issues affecting mobile home parks.

There was no general discussion.

7. Set next meeting agenda.

There will be a review of adjustments to Chapter 80-10 by Mary Turk.

The next meeting is set for the 4th of August at 1:30 p.m.

Mr. Schrimp's presence is requested at the next meeting.

Meeting adjourned at 3:48 p.m.

Staff Assistant Tobie Black