



## CODE ENFORCEMENT BOARD MEETING Minutes of December 12, 2024

The Code Enforcement meeting was called to order by Vice Chairperson, Brett Faulkner at 7:01 p.m., followed by the Pledge of Allegiance.

Present: Brett Faulkner  
Betty Dammert

Josh Essner  
Danielle Hyman

Absent: Stephanie McDole

Linda Vogelpohl

Also Present: Andy Schabell, Mayor  
Phillip Liles, Code Enforcement Officer

David Plummer, City Administrator  
Mike Duncan, City Attorney for

Board

Greg Voss, Attorney for Code Enforcement Officer

### **APPROVAL OF MINUTES – May 29, 2024, Special Meeting**

**MOTION:** Betty Dammert made a motion to approve the minutes of May 29, 2024, special meeting, seconded by Josh Essner. All in favor, the motion passed 4-0-0.

### **NEW BUSINESS**

#### **Code Citation #1220C-2024 Appeals Hearing:**

Mr. Faulkner asked if there would be any witnesses here for Mr. Gilbert.

Mr. Duncan administered the oath to all parties, Mr. & Mrs. Gilbert and Phil Liles.

Mr. Faulkner explained the course of the hearing with the burden of proof on the side of the city, Mr. Liles will present first. Mr. Gilbert asked if the hearing could be postponed until he had his attorney present. Mr. Voss explained that the city would object to that as this has been an ongoing process and we are now 6 months into it.

Mr. Gilbert explained that he was under the impression that his attorney would be given all correspondence, and he thought his attorney would be in attendance, but he was not given notice.

Mr. Voss explained the hearing is under civil proceedings, this is due process. The city is required to serve the original complaint/citation upon the individuals.

Mr. Faulkner agreed to move forward with the hearing.

Mr. Liles gave his presentation of pictures from February 2024 to today of the back lot, that is filled with many items and used as storage of miscellaneous items. He read the City Ordinances that he is in violation of. Mr. Voss offered clarification regarding the review of an agreement with the court in Campbell County, Mr. Liles found no such agreement.

Mr. Liles reviewed Exhibit 1 of a bundle of pictures ranging from February to prior to May 29 and explained the process of issuing the citations. Ms. Hyman asked about the pictures and where the

pictures were taken from and whether they could be seen from the roadway. She was advised these pictures were taken from the other side of the fence.

Mr. Liles reviewed the timeline of events with the board (see attached).

Mr. Voss asked for the timeline be entered in as Exhibit 2

Mr. Voss asked that the abatement letter be entered in as Exhibit 3, the attorney sent on July 12.

Mr. Voss asked that the pictures from May 29 and on be entered as Exhibit 4.

Brett Faulkner asked if other small items may have been cleaned up that can't be seen.

Ms. Hyman asked how tall the fence is and could someone be walking by and see over the fence. She was advised that people walking by wouldn't be able to see over the fence.

Joshua Essner asked where the line is drawn regarding what can be stored and what cannot be stored since it is an automotive repair shop.

Mr. Voss shared it is the city's opinion that this is a junk yard and not the normal storage of the operation of the business. He also explained it is not the city's job to determine if a vehicle is junk or not but the other items laying around that do not pertain to the operation of the business would qualify as junk.

There was an explanation of how the citation amount was determined.

Mr. Essner asked what acceptable clean-up would be and Mr. Liles explained what the zoning and what the code states.

Mr. Faulkner asked compliance would be total clean-up of the back lot in 120 days.

Ms. Hyman asked what the impact is on the city if the lot remains as is. She was advised that regardless of if you can see it or not it matters if it is the law or not.

Mr. Faulkner gave Mr. Gilbert the floor to give his side of the story. Mr. Gilbert gave a timeline of the building and how there used to be gas tanks on site and those leaked and that is the reason the property failed the soil test.

There was some back and forth regarding the court case and agreement with the city. Mr. Voss stated that is here say. That there is no evidence to support that there was an agreement with the city.

Ms. Hyman asked if he had reached out to the former city employees for a statement regarding the former agreement. Mr. Gilbert stated that Mr. Liles asked the former employees, and they stated there was no such agreement.

Mr. Faulkner stated he has not heard anything from Mr. Gilbert that states how the city is wrong. He also asked if he is wanting to work out an agreement with the city. Mr. Plummer will support what the board decides, and he wants to make a decision that will get Mr. Gilbert's attention and compliance. Mrs. Gilbert asked if the two areas from the beginning to today to see the progression of the cleanup over time.



Mr. Voss asked if the building passed the fire inspection after the fire in 2012. He then asked if the occupational license was current with the city, Mr. Gilbert stated he is current. He then asked if delivery trucks park on the sidewalk when making deliveries, he does not allow them to park but sometimes they do not have a place to park in the lot. Mr. Voss asked if there was a specific place for delivery trucks to park, Mr. Gilbert advised there was not. He then asked Mr. Gilbert if he had employee parking, he advised that he pays for 10 parking spots at the bridge church for his employees to park. He was asked if cops have ever been called for an altercation with Spare Time about parking issues.

Mrs. Gilbert explained that she has been in contact with the EPA and that they have offered to give \$1 million to help with remediation.

Mr. Essner asked if he believes there is still more work to be done or if it is complete.

Mrs. Gilbert walked through the drone photo from December and explained the purpose of the vehicles.

City Clerk Stephanie Tarter gave testimony regarding the occupational license not being current. Mr. Gilbert asked if the business license and occupational license were the same. Mr. Gilbert stated that his license will be paid in two weeks.

Mr. Voss gave the closing argument that they have admitted they need to clean up the lot, that they are in violation. Mr. Gilbert imposed the 120 days on himself to get things cleaned up and they did not do anything until 30 days out. The residents have the right to have things look nice and the city is asking that the board impose the maximum fine of \$18,000 to show that the business is serious.

Mr. Gilbert gave his closing statement that he has made strides to clean up and that the item behind the fence is that big of an issue and if he is fined \$18,000, he does not have that kind of money, and he would have to close shop and shut down his business.

Mr. Duncan laid out the three items they must discuss and rule on. To determine if there is a violation, if a fine is appropriate and how much, and an abatement if there is a violation.

Mr. Gilbert asked if there have been any citizens to complain about the back lot. Mr. Voss objected to that question.

Mr. Faulkner stated that both parties agreed that a violation did occur.

**MOTION:** Josh Essner made a motion that a violation has occurred, seconded by Betty Dammert. All in favor, the motion passed 4-0-0.

The board discussed what the appropriate fine would be and what the remediation would be moving forward. Mr. Faulkner proposed setting an amount for the fine and an appropriate remediation and a part of the fine could be reduced if the remediation is done.

Mr. Faulkner proposed to set the fine at \$9,000

**MOTION:** Brett Faulkner made a motion to set the fine at \$9,000 through December 12, seconded by Betty Dammert. All in favor, the motion passed 4-0-0.

Ms. Hyman stated that the items behind the fence doesn't impact the city but does believe that parking on the sidewalk is more of a problem and that needs to be resolved. Mr. Essner believes efforts have been made to clean up the back lot.

Mr. Liles stated he needs to clear out the inoperable vehicles and store items indoors.

Mr. Duncan asked Mr. Liles and Mr. Voss to develop an abatement plan and present that to the board and meet back in a few weeks.

Mr. Faulkner stated that he would like to have clear expectations for both parties, abatement will start immediately and will review the clear expectations on January 9 at 7:00pm. He asked what an acceptable time frame for the abatement would be, but the board suggested to wait until the abatement was presented.

**MOTION:** Betty Dammert made a motion to meet on January 9, 2025, to review terms for the abatement, and set a time frame for the completion, seconded by Josh Essner. All in favor, the motion passed 4-0-0.

Hearing was recessed until January 9, 2025.

**OLD BUSINESS:** None

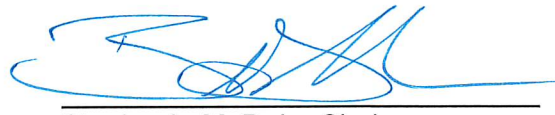
**ADJOURNMENT:**

**MOTION:** Josh Essner made a motion to adjourn, seconded by Betty Dammert. All in favor, the motion passed 4-0-0.

Attested to and submitted by:

  
Stephanie Tarter, City Clerk

1/9/25  
Date



Stephanie McDole, Chairperson  
BRETT FAULKNER, VICE CHAIRPERSON  
1/4/2024  
Date