

**THE CITY OF KENT, OHIO
LAND USE COMMITTEE
WED., JUNE 3, 2009**

This meeting of the Land Use Committee of Kent City Council was called to order on Wed., June 3, 2009, by Garret Ferrara, Chair, at 9:07 p.m.

PRESENT: MR. AMRHEIN, MR. DELEONE, MR. FERRARA, MR. HAWKSLEY, MR. KUHAR, MS. SHAFFER, MR. TURNER, MS. WALLACH, & MR. WILSON

ALSO PRESENT: J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; G. LOCKE, DIR. OF COMM. DEV.; AND L. COPLEY, CLERK OF COUNCIL

Chair Ferrara said the only item on their agenda dealt with the Exterior Maintenance Code. **Dave Ruller, City Manager**, introduced **Gary Locke, Director of Community Development**, at this time.

Mr. Locke said in the Fall 2007, they presented a draft of the International Property Maintenance Code, and had tweaked a few items as they relate to Kent's Code. He said while it was patterned after the IPMC, it was not an exact mirror.

Mr. Locke said in September 2008, Council asked for implementation policies and things they would do with respect to enforcement and methods of enforcement. He said they reviewed that information with the committee. He said they spoke about the neighborhood enhancement program, and it also ties into this. Mr. Locke said they gave the Council a little perspective on how this fits the big picture, adding the Manager's packet included some summaries to help refresh their direction. He said they need some sense from Council if they want to move forward, discuss it further, or not consider it at all. He said some movement is better than nothing, which is what they want.

Mr. Hawksley asked Mr. Locke to remind them how they will enforce the interior portions of this Code, and Mr. Locke said that most interior elements would be on a complaint basis. He said the likelihood of the homeowner complaining about himself or herself was low. He said there is more potential for a renter complaining if they felt the landlord was not taking care of something. He said there may be some things for the rooming houses that are not covered by the current Housing Code. He said they are not going to have discovery unless they get into a house.

Mr. Hawksley asked if a complaint is made, would they need a warrant if they have a legitimate idea of a health or safety violation, and Mr. Locke said if they were denied access, it would need a warrant. He said if a tenant complains and lets them in, they could cite the owner. **John Ferlito, Health Commissioner**, said they ask for written complaints. He said when it is received; they invite the owner to join them at the property. He said it is usually taken care of before they arrive, or they meet and discuss a solution. He said the Housing Code only handles multiple use structures, and if it is a duplex or single-family home, he has to use the state law. He said this Code would help him with enforcement.

Ms. Wallach asked if there would be a specific list, and Mr. Ferlito said he cannot do anything unless there is a safety hazard. He said if it is a structural issue, they call the Building Department, but most of their laws are for things being built. He said this would help. Ms. Wallach said if something is out of his area, he can point the right person in that direction, and Mr. Ferlito agreed.

Mr. Locke said the Building Code is not set up as maintenance code, as is geared toward construction. He said that the Building Code is not a Maintenance Code, which is why they have proposed the IPMC.

Ms. Wallach asked, with respect to the additional interior things, who would enforce that, and Mr. Locke said the IPMC would be enforced through the Building Department. He said the Health Department already goes into certain rental properties. He said over the years, they have called the Building Department, adding this would increase the call ins, and the Building Department would do the

enforcement.

Ms. Shaffer asked how they would treat abandoned or vacant buildings, and Mr. Locke said there are limitations they could cite for, with respect to the current Building Code. He said the IPMC would open up a broader spectrum. He said there is an infamous building downtown, and he asked his building inspector to see if there were any violations. He said there were none, other than the window issue which is being dealt with by the Health Department. He said with the IPMC, there are about one dozen items that could be cited. Mr. Locke noted that the Economic Development Director wanted him to mention that they have been getting written and verbal input from some business people, admonishing them to look at trying to do something with the property. He said they are concerned with the condition of the neighborhoods. Mr. Locke said there will be some criticism, but they will find support among the people in the community.

Ms. Shaffer asked if the section about motor vehicles and equipment could include construction related equipment like scaffolding, and Mr. Locke said that would mostly be for junk vehicles. Ms. Shaffer asked about scaffolding, and Mr. Locke said he would look at that issue. Ms. Shaffer asked if they would have a little more leverage, and Mr. Locke said it would give them a lot of leverage. He said that particular property has been cited, and they are getting it into court. He said the IPMC would put them in a better position.

Ms. Shaffer asked if it would be the same type of enforcement, with citations and court, and Mr. Locke said he was looking for ways to keep them out of court, which is neither fast nor effective. He said when they put this together before; they looked at innovative ways to deal with the issues. He said they will ultimately go to court with some, but if thirty court cases are reduced to five, it would be successful.

Mr. Locke said for those issues that do not have a life-threatening safety issue; they have built in a process for voluntary compliance, by an agreement. He said it would be entered into with the owner, and would stipulate the period of time it would take to fix the property and address the issues. He said the owners would put up a little bond, and if they did not complete what was promised, it would put them in a much more difficult situation if they go to Court. He said if this was successful, they may be able to use it in other areas of city law.

Mr. Turner said there were about three items he viewed as a duplication as related to Mr. Ferlito's responsibilities. He said those would be rubbish, garbage, insect, and rodent infestation in food preparation areas. He asked Mr. Ferlito if this is something he deals with, and Mr. Ferlito said they, if they receive a complaint. Mr. Turner said this Code is complaint oriented as well, and Mr. Locke disagreed. Mr. Turner said he thought Mr. Locke said it would be complaint driven, and Mr. Locke said for interior issues only. Mr. Turner said he was talking about interior items. He asked how they would deal with them, and Mr. Ferlito said in licensed homes, if they see them, they cite them. He said in single family and duplexes, they do not get in unless they have a complaint. He said if they have access, they can cite them. Mr. Turner said they are looking at this for enforcement issues on rental properties, adding Mr. Locke said those who own property do not complain about themselves. He said it would be more focused on commercial or rental properties. Mr. Locke said the proposed code would be applicable to all properties. He said the current Code is not applicable to all, and is just primarily for residential. He said it does allow some use against vacant commercial properties. He said this was the distinction he was trying to make earlier. He said they have to have the ability to discover the violation. He said it is more difficult with interior issues. Mr. Locke said the Code will apply to everything dealing with the exterior, as it is more easily discovered. He said the only distinction is between the inside and the outside.

Mr. Turner asked, by establishing a code which specifies interior responsibilities, if they are setting up a liability if they fail to meet those standards established, and Mr. Locke asked for further clarification. Mr. Turner said if they have a code that indicates their responsibility to see that the items are met, in terms of paint, infestation, etc., he wondered if there would be additional liability if it was not enforced. Mr. Silver said the owner is still responsible for code violations, regardless of whether they are told to fix them or not. Ms. Shaffer asked what they need to do to move this forward, and Chair Ferrara said they need a vote, but first need to hear questions.

Mr. Kuhar asked if they are discussing the Property Maintenance Code or the Exterior Maintenance Code, and Mr. Ruller apologized for how it was listed, adding it was the Property Maintenance Code. Mr. Kuhar said there are items regarding window size, head room size, square footage, etc., and a lot of the homes that are preexisting would not qualify. Mr. Locke said he would want to look at it a little more to see if that would be problematic, adding he could not give him an answer now.

Mr. Ferlito explained they have seen similar problems in the older homes, and give them a variance. Mr. Locke said the Building Office has some discretion in those areas, also.

Mr. Kuhar said some of the houses in Farmbrook are in violation, and Mr. Ferrara suggested they could take up that specific issue at a later time.

MOTION TO ADOPT THE PROPERTY MAINTENANCE CODE.

Motion made by Ms. Shaffer, seconded by Mr. Hawksley.

Ms. Shaffer said they need to give the staff the necessary tools, in a way that it does not cost the City so much time and money.

Mr. Hawksley said this has been a long time coming. He said the most responsible people take care of their homes. He said he planned to make another motion after this one, regarding their ability to enforce it.

Mr. Turner said he would like to see a separation between interior and exterior items. He said the exterior items have relevance, but he was concerned they were overreaching with the interior aspects.

MOTION TO AMEND TO EXCLUDE THE INTERIOR ASPECTS.

Motion made by Mr. Turner, seconded by Mr. Kuhar.

Ms. Shaffer said this is an important tool, and she can see situations where it can be useful. She said the Health Commissioner can only go into licensed rentals, and this gives ability to protect the health, safety, and appearance of the neighborhood.

Mr. Wilson said he would vote against it. He said without the interior, it is what they have already. Mr. Wilson said this is a big step forward.

Mr. Kuhar said without an exact draft of what is covered on the interior, he has some issues. He said they would be going into a private residence.

Mr. Turner said they already have the ability from a health and safety point. He said those people are living in those conditions, and have manufactured them. Mr. Turner said he could support it for rental or commercial properties, but this is an overreach.

The amendment failed by a hand count of 3-5-1, with Mr. Kuhar, Ms. Wallach, and Mr. Turner supporting the motion, with Mr. Hawksley, Mr. DeLeone, Ms. Shaffer, Mr. Amrhein, and Mr. Wilson dissenting. Mr. Ferrara abstained.

The original motion carried by a voice vote of 7-1-1, with Mr. Kuhar dissenting and Mr. Ferrara abstaining.

MOTION TO GIVE THE ADMINISTRATION THE AUTHORITY TO ESTABLISH APPROPRIATE ENFORCEMENT MEASURES AS PREVIOUSLY PRESENTED TO COUNCIL.

Motion made by Mr. Hawksley, seconded by Ms. Shaffer.

Mr. Hawksley said the Administration has very innovative approaches to dealing with these issues. He said what he heard was generous and appropriate, and will keep the City attorneys less busy.

The motion carried by a voice vote of 8-0-1, with Mr. Ferrara abstaining.

Hearing no further business before this Committee, Chair Ferrara adjourned this meeting at 9:35 p.m.

Linda M. Copley, Clerk of Council

ACTION RECOMMENDED:

- 1) **TO ADOPT THE PROPERTY MAINTENANCE CODE.**
- 2) **TO GIVE THE ADMINISTRATION THE AUTHORITY TO ESTABLISH APPROPRIATE ENFORCEMENT MEASURES AS PREVIOUSLY PRESENTED TO COUNCIL.**