

## **MINUTES OF THE PROPERTY OWNERS APPEAL BOARD**

**MONDAY ~ DECEMBER 10, 2018 ~ 11:00 A.M.**

### **PLANNING DEPARTMENT CONFERENCE ROOM**

The meeting was called to order by Chairperson Karen Lewis, presiding. On roll call, the following members of the Property Owners Appeal Board (POAB) were also present: Megan Raynor, Joel Culberson, and Dennis Shaeffer; absent - Scott Monroe. Chairperson Lewis declared a quorum present.

Each member of the POAB present introduced themselves conveying how long they've been property owners in Fort Smith. The following City of Fort Smith staff were also in attendance and introduced themselves as noted below:

- ▶ Sherri Gard, City Clerk
- ▶ Doug Farris, Neighborhood Services Inspector
- ▶ Scott Hamilton, Neighborhood Services Inspector
- ▶ Shawn Gard, Neighborhood Services Inspector
- ▶ Jimmie Deer, Building Official

The minutes of the July 9, 2018 meeting, and September 5 and 11, 2018 appeal hearings were presented for approval. Shaeffer, seconded by Raynor, moved approval of the minutes as written. Prior to the vote, Mrs. Gard advised the minutes of the September 5, 2018 appeal hearing indicated POAB member Joel Culberson was present; however, Mr. Culberson was absent for the September 5, 2018 appeal hearing. The motion to approve the minutes was amended to include "*as revised*" for the September 5, 2018 public hearing. The motion remaining on the floor and the members present all voting aye, Chairperson Lewis declared the motion carried.

Item No. 1 was consideration of an appeal for three (3) delinquent property cleanup

***Property Owners Appeal Board - December 10, 2018***

liens at 2301 South "R" Street, owned by Jo A. Whitby, i.e. \$254.07 cleaned May 31, 2017; \$224.57 cleaned July 10, 2017; and, \$224.57 cleaned September 30, 2017.

Chairperson Lewis noted the appeal was presented to the Board of Directors at their November 20, 2018 regular meeting during the public hearing and consideration of an ordinance certifying delinquent property cleanup liens to the Sebastian County Tax Collector. Since the appeal had not been considered by the POAB at the appeal hearings in September 2018, the Board of Directors referred the matter to the POAB for consideration.

Inspector Doug Farris presented videos of inspections, before and after pictures of the subject cleaning, and reviewed the property file as provided below:

- ▶ May 1, 2017  
Inspector Doug Farris posted a Warning Notice on the property for overgrown conditions.
- ▶ May 10, 2017  
Neighborhood Services staff verified the owner through the Sebastian County Assessor's website. Arkansas Senate Bill 372 Item (7)(A) requires that any lien-holders be given seven (7) days notice prior to undertaking any work on a property. A legal search was performed whereby no lien-holders were discovered.
- ▶ May 10, 2017  
A copy of the Warning Notice, along with a cover letter, was forwarded via certified mail to Jo A. Whitby, 5 Candlestick Lane, Fort Smith, AR 72908.
- ▶ May 12, 2017  
The letter was signed for by Jo Whitby. The posting on the property and the sending of the certified letter met the requirements of legal notice.

**Property Owners Appeal Board - December 10, 2018**

- ▶ May 19, 2017  
The property remained in violation; therefore, Inspector Farris documented the violation for assignment to a contractor for abatement. The contractor abated the violation on May 31, 2017.

NOTE: When overgrown conditions on a property are abated by the City of Fort Smith, the City maintains authority to abate any additional overgrown conditions on the property every thirty (30) days throughout the calendar year without further notice to the property owner or lien-holder(s). The aforementioned is clearly stated in the cover letter to the property owner and lien-holder(s).

- ▶ July 3, 2017  
The property was once again in violation for overgrown conditions. Inspector Farris documented the violation for assignment to a contractor for abatement. The contractor abated the violation on July 10, 2017.

- ▶ September 29, 2017  
The property was once again in violation due to overgrown conditions. Inspector Farris documented the violation for assignment to a contractor for abatement. The contractor abated the violation on September 30, 2017.

- ▶ Abatement costs and associated fees were assessed as follows:

<b>May 31, 2017</b>	<b>July 10, 2017</b>	<b>September 30, 2017</b>	
\$ 70.00	\$ 52.50	\$ 52.50	Labor Charges
28.00	16.00	16.00	Photo Charges
<u>.00</u>	<u>.00</u>	<u>.00</u>	Landfill Charges
\$ 98.00	\$ 68.50	\$ 68.50	Sub-Total
<u>156.07</u>	<u>156.07</u>	<u>156.07</u>	Administrative Fees
\$254.07	\$224.57	\$224.57	Total

Grand Total: \$703.21

Mr. David Crowell, son of the property owner Jo A. Whitby, addressed the POAB conceding the property was most likely in violation the day before the first cleaning; however, he alleged such was minimal. No dispute was conveyed regarding proper

***Property Owners Appeal Board - December 10, 2018***

notification as his mother signed for the certified letter advising of the violation in May 2017; however, he was personally unaware a violation existed on the property and added that had he known, such would've been addressed immediately. At the time of the initial violation, his mother was hospitalized for very serious, life-threatening conditions. The main hope of his appeal is that the POAB will authorize an extension of time to pay the liens.

Several members of the POAB offered multiple inquiries, i.e. was the violation complaint driven; have there been any additional cleanings since September 2017; is the property currently vacant and if so, since when; who maintained the property prior to his mother's hospitalization; and, does Mr. Crowell consistently drive by the property.

Inspector Farris advised the violation was not complaint driven, but discovered during canvas of the neighborhood.

Inspector Hamilton confirmed that although the property has been found to be in violation on multiple occasions since September 2017, such were abated without necessity of assignment to the City's contractor.

Mr. Crowell noted the property is a duplex that his mother and another tenant occupied. The tenant maintained the property while he resided there. Unfortunately, the tenant vacated the structure around the time of his mother's hospitalization; therefore, he and his son assumed maintenance responsibilities. Concession was offered that maintenance was inadequate citing he was consumed more with his mother's health than the condition of the property. Neighbors would assist with maintaining the subject property during his mother's hospitalization, which extended for approximately two (2) months. Regardless, the structure is currently vacant and it's his intent to sell the property. With

**Property Owners Appeal Board - December 10, 2018**

regard to consistently driving by the property, he admitted that such was not accomplished prior to the tenant vacating the property. Regardless, due to the issue at hand, he now frequently drives by the property to ensure no additional violations exist.

With regard to Mr. Crowell's indication for an extension of time to pay the liens in full, Chairperson Lewis confirmed such may be accomplished via the City Clerk's Office. Additionally, much appreciation was extended to Mr. Crowell for his initiative to now properly maintain the property.

Ms. Raynor requested a detailed breakdown of all administrative fees whereby such was provided by Mr. Deer, and discussed briefly by the POAB members.

Raynor, seconded by Shaeffer, moved to reduce the total amount due by \$120.00 of administrative fees, i.e.  $\$703.21 - \$120.00 = \$583.21$ , and that the adjusted amount due be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

There being no further business to come before the Property Owners Appeal Board, Raynor moved that the meeting adjourn. The motion was seconded by Shaeffer and the members present all voting aye, Chairperson Lewis declared the motion carried and the meeting stood adjourned at 11:27 a.m.

**APPROVED:**

  
**CHAIRPERSON**

**ATTEST:**

  
**CITY CLERK**