

**MINUTES OF PROPERTY OWNERS APPEAL BOARD HEARINGS**

**SEPTEMBER 14 AND 23, 2020 ~ 6:00 P.M.**

**FORT SMITH CONVENTION CENTER**

The hearings were held to allow delinquent property owners an opportunity to be heard regarding charges by the City for abatement costs and who feel they have been wrongly charged. Notice of the hearings was published in the Times Record on Monday, Wednesday, August 12, 2020. Certified letters dated August 10, 2020 were also mailed to each property owner of record for notification of each violation.

**MONDAY, SEPTEMBER 14, 2020**

The hearing was called to order by Acting Chairperson Megan Raynor, presiding. The following remaining members of the Property Owners Appeal Board (POAB) were also present: Dennis Shaeffer, Bobbie Woodard-Andrews, and Jack Swink. A quorum was declared.

City of Fort Smith staff present were City Clerk Sherri Gard, Director of Building Services Jimmie Deer, Neighborhood Services Supervisor Shawn Gard, and Inspectors Dean Polk, Scott Hamilton, William Gordon, and Doug Farris.

Acting Chairperson Raynor announced that Item No. 1 was selection of a chairperson for the term of July 15, 2020 through July 14, 2021; therefore, she opened the floor for a nomination.

Shaeffer, seconded by Woodard-Andrews, nominated Megan Raynor to serve as chairperson for 2020-2021. The members all voted aye with the exception of Raynor who abstained. Chairperson Raynor declared the motion carried.

***Property Owners Appeal Board - September 14 and 23, 2020***

Chairperson Raynor announced that no RSVP's were received and no individual was in attendance to present an appeal on delinquent property cleanup liens.

There being no further business to come before the POAB, Shaeffer moved that the hearing adjourn. The motion was seconded by Woodard-Andrews and the members all voting aye, Chairperson Raynor declared the motion carried and the hearing stood adjourned at 6:01 p.m.

**WEDNESDAY, SEPTEMBER 23, 2020**

The hearing was called to order by Chairperson Megan Raynor, presiding. The following members of the Property Owners Appeal Board (POAB) were also present: Dennis Shaeffer, Bobbie Woodard-Andrews, and Jack Swink. A quorum was declared.

City staff in attendance were Assistant City Clerk Heather James, Director of Building Services Jimmie Deer, Neighborhood Services Supervisor Shawn Gard, and Inspectors Dean Polk, Scott Hamilton, Doug Farris, William Gordon, and Doug Mizell.

Chairperson Raynor stated the purpose of the hearings, and then each member of the POAB present introduced themselves and advised how long they have been property owners in Fort Smith. She further noted that appeal of any decision made by the POAB may be appealed to the Fort Smith Board of Directors at a public hearing, which is scheduled for 6:00 p.m., Tuesday, November 17, 2020 at the Fort Smith Convention Center, 55 South 7<sup>th</sup> Street.

The agenda consisted of the following properties in which property owners indicated their intent to appeal delinquent property cleanup liens:

***Property Owners Appeal Board - September 14 and 23, 2020***

- Property:** 1426 North 40<sup>th</sup> Street  
**RSVP:** September 9, 2020 / Ashley Peterson  
**Owner(s):** Ruth V. & Ashley Clay Peterson  
**Cleaned:** September 26, 2019 \$1,143.34

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

August 14, 2019

A complaint was submitted to Neighborhood Services regarding a dead tree on the subject property.

August 16, 2019

Conducted inspection and met with the adjoining property owner that suffered damage caused by said tree. A large portion of the tree broke off due to decay and demolished their carport, and totaled a vehicle parked underneath said carport.

Seven (7) day cleanup notice was issued and posted on the subject property.

Legal search of property ownership and potential mortgages was conducted by Neighborhood Services office staff.

A copy of the Notice, along with a cover letter, was forwarded via certified mail to the owner of record, i.e. Ruth V. Peterson & Ashley Clay Peterson, 214 North 40th Street in Fort Smith. Additionally, a copy was forwarded to the tenant via first class mail at the subject address.

On or around the date of inspection, the inspector spoke with the tenants at 1426 North 40th Street, who indicated they would inform the owner of the property, Ashley Peterson, of the notice issued and the problem with the tree.

August 30, 2019

The certified letter was returned as "Unclaimed." Posting of the property and sending of the certified letter met the requirements of legal notice.

September 10, 2019

A final inspection was conducted whereby the property remained in violation.

**Property Owners Appeal Board - September 14 and 23, 2020**

September 16, 2019

Due to non-compliance, Neighborhood Services moved forward to secure three (3) bids for tree removal whereby All American Tree Service was ultimately selected and the tree was removed on September 26, 2019.

December 11, 2019

(copied directly from Neighborhood Services database notes entered in by Shawn Gard) *“Received a phone call from Mr. Ashley Peterson who received the bill for the abatement of the tree. He was not pleased of what he feels was lack of notification. I explained to Mr. Peterson that we spoke with his tenant, left notification at the property as well as sending a certified letter to his home address. I confirmed with him the address that it was sent to and he acknowledged it was the correct mailing address. I advised Mr. Peterson if he was in disagreement he had the right to appeal the abatement next year before the Property Owner Appeals Board. Once again he felt that another letter should have been sent out to try and reach him. I explained to Mr. Peterson we met the legal requirements for notification. He thanked me for calling him back and that ended the conversation.”*

Abatement costs and associated fees were assessed as follows:

\$ 975.00	Contractor (All American Tree Service)
108.80	Administrative Fee - Neighborhood Services
<u>59.54</u>	Administrative Fee - Finance Department
\$1,143.34	Total

Mr. Ashley Peterson addressed the POAB citing he was unaware of the violation. The property is a rental and the tenant was under eviction notice at the time the violation was posted on the property. He alleged the tenant did not advise him of the posting.

There was lengthy discussion and thorough review of before and after photographs of the cleaning provided by Neighborhood Services staff.

**POAB Action ~ 1426 North 40<sup>th</sup> Street**

Swink, seconded by Shaeffer, moved to reduce the total amount due by half, i.e. \$571.67, and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Raynor declared the motion carried.

**Property Owners Appeal Board - September 14 and 23, 2020**

2. **Property:** 1820 Louisville Street  
**RSVP:** September 21, 2020 / John Portz  
**Owner(s):** John Portz  
**Cleaned:** September 5, 2019 \$306.84  
October 21, 2019 \$257.04

Neighborhood Services Inspector Scott Hamilton presented videos of inspections, before and after pictures of the subject cleaning, and reviewed the property file as provided below:

August 1, 2019

Property was observed to be in violation of Section 16-5 for overgrowth of grass and weeds. The property was documented and a 7 Day Clean-Up Notice was posted on the property.

August 5, 2019

A legal search of the property was conducted by the office staff. No other parties having interest in the property was found. A certified/Return Receipt letter was sent to the owner Mr. John Portz.

August 19, 2019

Certified letter was returned back to the City of Fort Smith Neighborhood Services UNCLAIMED by the owner.

August 26, 2019

A final inspection was conducted, the property remained in violation of Section 16-5 Overgrowth of Grass/Weeds. The property was documented via video filming and abatement order was completed.

September 5, 2019

Property was abated by city contractor for overgrowth of grass and weeds and documented via digital photography.

September 12, 2019

Follow up 30 day re-inspection was scheduled for October 7, 2019.

October 7, 2019

Upon re-inspection of the property it was found to be in violation of Section 16-5 again for overgrowth of grass and weeds. It was filmed and contractor abatement order was completed.

October 8, 2019

Abatement order was issued to the contractor.

**Property Owners Appeal Board - September 14 and 23, 2020**

October 21, 2019

Property was abated by city contractor for overgrowth of grass and weeds and documented via digital photography.

Abatement Costs and associated fees were assessed as follows:

<b>September 5, 2019</b>	<b>October 21, 2019</b>	
\$154.50	\$115.50	Contractor
92.80	82.00	Neighborhood Services
<u>59.54</u>	<u>59.54</u>	Finance
\$306.84	\$257.04	Total

Mr. John Portz addressed the POAB alleging the neighbors consistently harass him citing they call Neighborhood Services to report his yard on a regular basis. Although he conceded violations do occur; however, he always gets the yard taken care of within the required timeframe. Regarding the subject cleanings, he was unable to accomplish compliance in time citing he had been recently diagnosed with cancer and was undergoing treatments.

There was lengthy discussion and thorough review of before and after photographs of the cleaning provided by Neighborhood Services staff.

**POAB Action ~ 1820 Louisville Street**


Shaeffer, seconded by Woodard-Andrews, moved to reduce the total amount due by removing the Neighborhood Services and Finance Department administrative fees (September 5, 2019 from \$306.84 to \$154.50 and October 21, 2019 from \$257.04 to \$115.50), and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Raynor declared the motion carried.

There being no further business to come before the Property Owners Appeal Board, Shaeffer moved that the hearing adjourn. The motion was seconded by Woodard-Andrews and the members all voting aye, Chairperson Raynor declared the motion carried and the hearing stood adjourned at 7:12 p.m.

**APPROVED:**

  
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**CHAIRPERSON**

**ATTEST:**

  
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**CITY CLERK**