

MINUTES OF THE PUBLIC HEARING OF THE CITY OF FAIRWAY, KANSAS

The Council of the City of Fairway, Kansas, held a Public Hearing at 6:00 P.M. at 5240 Belinder Road, Fairway, Kansas, on Monday, December 11, 2023.

Present: Council Members Jenna Brofsky, David Watkins, Jonalan Smith, Kelly-Ann Buszek, Dan Bailey, Joe Levin and Tanya Keys.

Absent: Jason Rogers.

Presiding: Mayor Melanie Hepperly.

Staff Present: Nathan Nogelmeier, City Administrator; Richard Cook, City Attorney; J.P. Thurlo, Police Chief; Bill Stogsdill, Director of Public Works; Brice Soeken, Director of Parks and Recreation; Abbie Aldridge, City Clerk; Vickie Tillery, Assistant City Clerk; Jamie Baum, Community Service Officer.

Visitors: Sherri Halvorsen, 4013 W. 62nd Street.

1. CALL TO ORDER AND ANNOUNCEMENTS

Mayor Hepperly called the Public Hearing to order.

2. PLEDGE OF ALLEGIANCE

Mayor Hepperly led the Council in the Pledge of Allegiance.

3. STAFF REPORT (UPDATE) FOR 4013 W. 62ND STREET, FAIRWAY, KANSAS

Community Service Officer (CSO) Baum reported that she, Chief Thurlo and City Administrator Nogelmeier reinspected the property at 4013 W. 62nd Street, Fairway, Kansas today. She observed that the homeowner had disposed of some of the trash in the living room, dining room, and two bedrooms. The owner had hired a plumber to fix the leak in the upstairs toilet and removed the canine urine-soaked clothing from the bathroom floor. Other than trash being removed, the status of the home remained the same as the prior inspection. The property owner stated that they had not commenced any clean-up of the basement as the company they are hiring to repair the foundation will also be cleaning the basement. A lawn crew mowed the backyard and removed volunteer trees. Additional minor issues were discovered during the inspection, i.e., light switches and outlet covers and there is significant damage to flooring in the back bedroom.

CSO Baum presented photographs of the current status of the home on the overhead. In the living room and dining room, significant trash has been removed. In the bathroom, the toilet leak has been repaired and the room has been cleaned somewhat; however, peeling wallpaper and the ceiling remain the

same. The window in the bathroom is not closing properly. In the main bedroom, a significant amount of trash has been removed and there is damage to the hardwood floor. The secondary bedroom has had a significant improvement in trash removal but an outlet in the room has exposed wiring. There was not a significant change in the kitchen area in that the subfloor is exposed, there is a lot of trash in general, and there is still evidence of rodent infestation. There are several outlets in the kitchen area that need covers. The door to the garage does not latch and the condition of the garage has not changed. Going to the basement, there are two stairs at the bottom of the basement that are broken and loose. The basement has not changed from the previous inspection. The foundation repair company has indicated they would remove everything in the basement. The washing machine has been drained but the ceiling needs repaired from the toilet leak in the floor above.

CSO Baum offered to answer questions from Council.

Responding to Councilwoman Brofsky's question, CSO Baum stated that she cannot estimate how much time the homeowners have spent doing cleanup. The homeowner and her adult son call her at least once per week to let her know they are going to the home to do cleanup. The homeowner is allowed to enter the home but they are required to notify staff because of the condemnation of the property.

Responding to Councilman Watkins question, CSO Baum stated that the foundation wall has not been repaired and there is still black mold in the home so her conclusion of condemnation from her original report has not changed.

As for a timeline, CSO Baum understands from the property owner that once the foundation is repaired, they have to wait a few months for the house to settle before they can go in and do anything else significant.

City Administrator Nogelmeier stated that the leak from the main floor to the basement was going on for some time but he would expect it to take less than a week to remediate the mold. The mold remediation can begin prior to the foundation repairs; however, the City requires a certificate from the remediation company that states that the mold has been removed and until the foundation can be sealed up, the remediation company will not be able to provide that certification. He does think the remediation company could come in and remove a bulk of the mold and it is possible that the foundation crews may not want to repair the foundation until the mold is removed.

Mayor Hepperly asked if there were additional questions for staff. Hearing none, she asked the property owner to address the Council.

4. 4013 W. 62ND STREET, FAIRWAY, KANSAS PROPERTY OWNER/AGENT COMMENTS

Sherri Halvorsen, 4013 W. 62nd Street, stated that she is the property owner. She explained that the permits have been applied for and the repairs are planned to begin next week. The foundation work will begin and the basement will be cleared out. Then, someone will come to repair the floors and clean the kitchen. Eventually, new doors will be hung and the painting will be completed once the house settles from the foundation work, which could take some time.

Responding to Councilwoman Brofsky's question, Ms. Halvorsen stated that she would like to stay in her home.

Mayor Hepperly advised Ms. Halvorsen that the Governing Body also wants her to be able to stay in the home. She added that the Council and staff are required to go through this process, but will help her go through the steps necessary for her and her family to be able to stay in the home.

City Administrator Nogelmeier confirmed that Ms. Halverson has submitted a permit application for the repairs. Initially, the foundation repair company was going to potentially take care of the mold; however, that company is not licensed to take care of mold. There are employees of the foundation company who have indicated that they are licensed to take care of the mold and the City is waiting for those credentials. If the City does not receive those credentials, then the property owner will need to find an alternative to clean up the mold. Director Alani did approve the building permit for the foundation repair only. The foundation company will also be doing some of the restoration work on the subfloors under a separate permit. The foundation repairs are scheduled to begin on December 18, 2023 and that work will take a few days. As indicated by Ms. Halvorsen, the foundation will need to settle for up to two months after the repairs have been completed before they can hang new doors (particularly the front door and the garage door), which will be required to be secured before the owners are allowed to occupy the home.

City Administrator Nogelmeier, CSO Baum and Director Alani met today with the property owner to go over a detailed list of repairs prepared by CSO Baum.

As indicated in the Resolution before the Council, the work is required to be commenced within the next 45 days. The Resolution would also start a six-month clock from the day the permit is issued for all the work, permitted and non-permitted, to be completed so a certificate of occupancy can be issued. There is some flexibility in the Resolution if the work is not completed within six months. The Statute requires that the property owner "diligently pursue the work," and as long as that is occurring, staff would continue to work with the property owner.

Over the next several months, work will continue. The property owners have laid out a good plan to begin the work and they understand the work that needs to be completed to regain occupancy to the home. They also understand the requirements that the work begin within the next 45 days and that it be completed within six months of the date of issuance of the first permit. The property owners were also advised of the potential consequences if they do not meet the

expectations laid out in the Resolution, including the potential for raising the home. Staff will continue to work with the property owners to provide them any assistance they need in order to meet their goal of getting back into the home.

Responding to Mayor Hepperly's question, Ms. Halvorsen stated that she does not have any additional questions and further stated that she understands the timeline and each of the items required to regain occupancy to the home. She also understands that she will need to contact some other company to remove the mold from the home.

Mayor Hepperly explained that the laws the City needs to follow are very specific about who can be accepted to do the work. She added that while staff cannot choose who does the work, staff can provide a list of companies that the property owner could contact.

Responding to Councilman Watkins' question. City Administrator Nogelmeier explained that the six-month window starts after the first permit is issued. The property owners may pull additional permits, as long as all work is completed within the six-month timeframe. Most of the work on the detailed list prepared by CSO Baum will not require a permit as most of the work is cosmetic and non-structural. And, as work is completed and inspections are done, if additional work is discovered that needs to be done to be Code compliant, the list will be updated and the property owner will be notified.

Councilwoman Buszek thanked Ms. Halvorsen for attending the meeting and reiterated that the goal of the Council is to work with her to get her back into the home.

Responding to Councilwoman Brofsky's question, Ms. Halvorsen stated that she can't think of anything additional that the City can go do assist her in the process.

5. PUBLIC COMMENT

Mayor Hepperly asked for public comment on this item and no members of the public wished to comment.

6. CONSIDER RESOLUTION 2023-G – A RESOLUTION DECLARING THE STRUCTURE LOCATED AT 4013 W. 62ND STREET, FAIRWAY, KANSAS, TO BE UNSAFE AND DANGEROUS AND ORDERING REPAIRS OR DEMOLITION PURSUANT TO K.S.A. 12-1750 ET SEQ. AND SECTION 108 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2000 EDITION, AS INCORPORATED BY REFERENCE WITH CERTAIN CHANGES IN SECTIONS 6-52 TO 6-56 OF THE FAIRWAY CITY CODE.

Mayor Hepperly asked for the Council to consider Resolution 2023-G.

Councilwoman Brofsky pointed out there is no language in the Resolution concerning whether an additional notice period will be provided to the

homeowner if a decision is made to raise the home. For example, if after six months the work has not been completed, the Resolution delegates the decision concerning raising the home to staff. She would like the Council to be a part of any decision concerning raising the home.

City Attorney Cook responded that he would need to review the Statute concerning notice provisions and due process requirements, if the decision is made to raise the home.

Responding to Mayor Hepperly's question, City Administrator Nogelmeier explained that this issue was discussed at the Administration and Finance Committee meeting, and the direction at that meeting was to make the process as efficient as possible. The Resolution has been drafted to provide clarity to both staff and the property owner on the process, including the requirement that a second Resolution would not be required if either the 45-day window to commence work or the six-month requirement for completion of the work were not met. The Resolution states that if those requirements are not met, staff has discretion on whether the matter would go back to the Council or whether to move forward with raising the home.

Mayor Hepperly recalled the discussion at the Committee meeting, and noted that the reason for that direction was due to prior experiences in the length of time involved and the fact that the Committee wanted the property owners to return to the home as soon as possible.

Councilwoman Brofsky also recalled the discussion at the Committee meeting; however, she and other Councilmembers expressed concern at that time. In addition, there will soon be two new Councilmembers and she does not know how they feel on the issue.

Mayor Hepperly responded that because the new Councilmembers have not yet been sworn in, they will not be involved in this decision. She added that she has worked with staff for more than 15 years and does not believe staff will make a decision to raise the home without discussing it with her so it will not be staff's sole decision.

Mayor Hepperly asked for additional discussion from the Council. Hearing none, she asked for a motion.

Councilman Bailey moved that the Council approve Resolution #2023-G – A Resolution Declaring the Structure Located at 4013 W. 62nd Street, Fairway, Kansas, to be Unsafe and Dangerous and Ordering Repairs or Demolition Pursuant to K.S.A. 12-1750 et seq. and Section 108 of the International Property Maintenance Code, 2000 Edition, as Incorporated by Reference with Certain Changes in Sections 6-52 to 6-56 of the Fairway City Code. Councilman Watkins seconded the motion and the motion carried 5 to 2.

7. ADJOURNMENT

There being no further business to come before the Council, Mayor Hepperly adjourned the Public Hearing at 6:30 P.M.

Mayor Melanie Hepperly

Attest:

Barb Fox, Recording Secretary