

Minutes

Housing Committee
Monday, May 4, 2015
6:45 p.m.
Police Training Room, 4th Floor
Municipal Building, Jamestown, New York

MEMBERS PRESENT: Chairwoman Marie Carrubba, Councilman Brent Sheldon, Councilwoman Maria Jones

MEMBERS ABSENT:

OTHERS PRESENT: Council President Greg Rabb, Director of Development Vince DeJoy, Greg Lindquist, Peter Lombardi, Mary Maxwell, Dr. Lillian V. Ney, Police Chief/Director of Public Safety Harry Snellings

Chairwoman Carrubba called the meeting to order.

The minutes from the March 16, 2015 meeting were approved.

Remarks from Community Members/Committee Members

No one appeared to speak.

Jamestown Renaissance Corporation - Chronic Nuisance Property Code Discussion

Ms. Carrubba: I'll turn it over to the Jamestown Renaissance Corporation. Thank you for coming again and reporting back. I know we had questions about the nuisance problems and since it's warm again, they've already started calling. So anything you can do to shed some light would be appreciated.

Mr. Lombardi: We appreciate the invitation. Peter Lombardi from the Jamestown Renaissance Corporation here with Greg Lindquist, Executive Director of the JRC, Mary Maxwell our neighborhood project associate, Dr. Lillian Ney, co-chair of the organization and Greg Rabb here is also on our Board as well as Vince DeJoy.

Basically we're here tonight to present some preliminary research on Chronic Nuisance Property Codes that we hope will aid the City Council in investigating this concept further. The folder that I distributed contains some material that we'll discuss tonight, some of it is for digestion after the meeting and also we hope that it will serve as the launching point for some additional investigation by this committee. In the right pocket of your folder are some materials on three models that we'll be discussing tonight from Milwaukee, Wisconsin, Madison, Wisconsin and Hudson Falls, New York. In the left pocket of the folder are some supplemental materials that will come up in our discussion. First, I thought it would be helpful to take a quick

step back before we launch into the details of what Chronic Nuisance Property Codes are. I think there's been an effort over the past decade in many cities to move away from traditional complaint driven, reactive ways of dealing with nuisances and blight toward something that's more systematic and more proactive and hopefully more effective. We've seen several communities across the country enact Chronic Nuisance Property Codes as a way of targeting what are often a relatively small number of properties that have a disproportionate share of code complaints and police calls in any given community. Some very interesting data that we've been analyzing recently; a member of the JRC Board has been compiling information from the Police Department and the Department of Development. Two very interesting statistics that I think are similar in most communities; first, among police calls tied to specific residential addresses in 2014, 75% of those calls were generated by just 15% of the City's residential properties. So 75% of the calls that could be tied to specific residential addresses in 2014 were generated by just 15% of residential properties. That's something you'll find in a lot of other communities. Just as interesting, only 70 residential properties were responsible for roughly 50% of residential code complaints in 2014. Again, what we're seeing here is that a relatively small percentage of properties are having a rather negative impact, not just on their surrounding neighborhoods, but on statistics city-wide. As I said, most cities will see numbers just like this and Chronic Nuisance Ordinances have been popping up in the last ten years as a way of intervening with these relatively handfuls of properties to work directly with property owners on ways of abating nuisances, behavioral nuisances and code driven nuisances. And where property owners are uncooperative, these ordinances are a way of doing cost recovery, performing cost recovery with property owners. Recognizing that if your property is generating dozens of code complaints or police calls in a given year, your property is a tremendous burden on not just your neighborhood, but also on municipal finances.

What we'll do, if there aren't any questions to begin with about the introduction here, I'll go into providing an overview of the materials in this packet here starting with the items in the right pocket that discuss these three models.

Dr. Ney: Under residential property, 75% are generated by 15% of the residential properties. The 15%, is that broken down at all?

Mr. Lombardi: We haven't broken it down yet, that is just plain residential properties, whether owner occupied or renter, 75% of calls generated by all residential properties come from 15% of the properties.

Dr. Ney: I'm just interested in it because at the Health Care Action Team, you may remember hearing about it; a lot of them are from rental properties. I just don't know the specifics or the percentage.

Mr. Lombardi: We're still crunching some numbers, but I think that the experience will be that rental properties do have an outsized effect on the 75% number. Like I said, we've got three models here. We started with the Milwaukee Model which we had mentioned in a column in the Post Journal back in January which I think first stimulated the discussion at this table. So we looked at the Milwaukee Model and we also looked at a similar model in

Wisconsin over in Madison that is slightly different, but I think it's different in important ways that are worth considering if Jamestown is interesting in taking up a policy like this. I found a policy in New York; there are policies like this in New York State. This one from Hudson Falls was enacted last year, so in the packet you have the ordinance language for these three models here.

Milwaukee, if we look down the Milwaukee column and you'll see across the board here, the types of properties that can be declared a chronic nuisance by a Chronic Nuisance Property Code, any private property. So these types of laws don't target rental properties, they target every private property. So if you're an owner occupant and you have loud parties several times a year, chances are you'll be declared a nuisance property by laws in these cities represented here. So in Milwaukee the next question; what can trigger a chronic nuisance declaration there? In Milwaukee, three or more nuisance occurrences within a 30 day period based on police responses to calls or credible complaints will trigger a declaration. If two drug-related or violent crimes are committed on the premises within a one year period, they can also be declared a chronic nuisance. What happens once a property is declared a chronic nuisance and nobody around at Milwaukee, it's the Police Department that oversees the enforcement of this policy. The owner is notified and has ten days to respond to the Police Department with a written course of action to abate the nuisance. In some cases in Milwaukee from what I've read, it's responding with a pledge to do some physical improvements to the property, if it's more lighting or security improvements on the first floor of a property if burglaries have been an issue. So they can range from physical improvements to the property and in cases where eviction is the only reasonable next step for abatement, sometimes that's the outcome as well. The city works with property owners to come up with a course of action and if the first plan doesn't work, they come up with another one, but what the city is looking for is active engagement by the property owner towards solving the problem.

If you have a property owner who fails to respond or fails to carry out an abatement plan that they worked on with the city, then the penalty is you get billed for all future police services. The owner gets billed for all future police services. An estimate is made of what the cost of a response by the police is and all future services are billed to the owner. If you get three bills for services in a single year then you get levied a fine of between \$1,000.00 and \$5,000.00. Again the Police Department is the part of city government in Milwaukee that's responsible for enforcement and something that's very important to note is that there are some notable exclusions to the triggers in Milwaukee and those primarily are domestic abuse, sexual assault and stalking. Where chronic nuisance property codes have been challenged, they've often been challenged because they don't provide a protection like that. Because what you don't want to do is give someone who's being abused a reason not to call the police. In the folder you have, in the left hand pocket, the very last page is a one page article that was published last year in the newsletter of New York State's Office for the Prevention of Domestic Violence. This was by a lawyer who works for the ACLU's Women's Rights Project. This describes the stance that the ACLU has taken on Chronic Nuisance Property Codes especially that don't include some sort of exemption for domestic violence. I think it seems like a lot of the more recent Chronic Nuisance Ordinances accommodate this and have discretion to exclude calls that may have been initiated because of domestic violence or stalking. For a while there were no exclusions like that included. So that statement here reflects how the ACLU feels

about Chronic Nuisance Codes in general, particularly ones that don't have those savings built in.

The Milwaukee material that you see there includes a brochure that they distribute so that property owners and the public in general knows what it's about, how it works and then the language from the code, and on the first page of code language, you see a long list in the right hand column of the types of nuisances that count towards the three trigger incidents in Milwaukee. For the most part in Milwaukee, these items are behavioral in nature; behavioral nuisances at a property.

Ms. Carrubba: Do you know how they distribute these to people? If you get called in on a complaint you get one of these or is it that everybody gets it as a warning that this is what will happen?

Mr. Lombardi: I know they have a good website that has that brochure there. I'm sure they give it if someone is about to be declared a chronic nuisance, they will certainly receive that material. I imagine it's available in any community center in the city. They have a public outreach from this brochure and other materials but I think that the brochure as well as the ordinance language gives you a pretty good idea of how Milwaukee's system works. On the website they state that 80% of properties that are declared chronic nuisances, the problem is dealt with without any fines being levied. I think that that's important to know; that the vast majority of property owners when they engage with the city work out a plan, commit to implementing the plan, the city never levies a fine whether it's the bill for service or the fine if you get three bills in a single year. If there aren't any other questions about Milwaukee, that's basically what I've uncovered about Milwaukee so far and that's a policy that has been in place since 2007, 2008. So less than ten years old.

Ms. Carrubba: Do you know if they've had a reduction of these kinds of issues because of this policy?

Mr. Lombardi: That's a good question and that's some additional research we'll have to do by interviewing some people who are close to the enforcement end of this in Milwaukee. That's actually something for all of these models here. Something that we don't have a good sense of yet is how effective they actually are. Do they cut down on the overall number of nuisances that are reported in any given year and is there an overall sense from the city officials who enforce it or from neighborhood leaders that are affected? That's something that there isn't a lot of good research on yet.

Mr. Sheldon: In the brochure it says, "Does the Chronic Nuisance Property Code Work?" It says that "The MPD reports a high degree of success. When property owners are presented with credible evidence of illegal activities on their property, most cooperate with the MPD to prevent its recurrence. Rental property where such activities do not occur is more profitable. Both the owner and the neighborhood benefit."

Mr. Lombardi: Yes I think the evidence from the 80% of cases are resolved without any fine I think is indicative of that. I think it will be interesting to see if, like you said, the total number of nuisances reported, has there been a decline in that trend line. I imagine that's something that they're keeping track of and I probably should be able to obtain.

Ms. Carrubba: If they get the properties cleaned up, if it's a nuisance issue over code then that would certainly be a benefit whether they fine them, if they actually get them to pay to have the work done. That's really what you want is to get the work corrected so if it takes the fining to get them to do the work and get it fixed then whatever it takes.

Mr. Rabb: Peter do you know when this Hudson Falls ordinance went into effect?

Mr. Lombardi: The Hudson Falls one went into effect last year.

Mr. Rabb: Adopted 2014.

Mr. Lombardi: Adopted yes, September 8th.

Mr. Rabb: So they haven't even had a year experience with this yet.

Mr. Lombardi: No there are a few other New York communities that I have found that have adopted; Patterson is a town in Putnam County that has had it on the books for about five years. I still have to find examples of cities in New York that have adopted this, but there are several communities that have adopted policies like this in New York State. The Hudson Falls one is similar to the Madison one. The Madison one I'll go over right now. The important differences with Madison I think that the Madison one is a more comprehensive form of Chronic Nuisance Property Code. You see that first with the question, what can trigger a chronic nuisance declaration. In Milwaukee it's primarily related to behavioral complaints that are called into the police.

In Madison they have three different steps. First; three or more calls for police services that result in enforcement action in a ninety day period. This is a higher threshold to cross than Milwaukee. In Milwaukee it can be just calls to the police that result in some sort of response. It doesn't have to lead to an arrest. In Madison, there has to be an enforcement action, three enforcement actions resulting in a ninety day period. That's a higher threshold than Milwaukee, but there are other components to this. Multiple code enforcement cases within twelve months with at least one resulting in enforcement action by the city and then the third component; manufacture distributional delivery of a controlled substance has resulted in an enforcement action or a search warrant. So those three items combined. It can be and/or. If you have a combination of two police service calls and a code enforcement infraction that leads to enforcement that can trigger the chronic nuisance property declaration. The ordinance is very well constructed; it's the cleanest one that I've read. I would encourage you in your free time to read the Madison ordinance.

What happens when a property is labeled a chronic nuisance in Madison? It's similar to what happens in Milwaukee, the owner is notified and has 10 days to respond with a written course of action to abate the nuisance.

And this is very interesting, owners of non-owner occupied rental properties must attend landlord training. The other items in the left pocket that you have there pertain to the landlord training programs. This isn't Madison's landlord training program, but many cities in the country that offer landlord training programs model theirs after Portland, Oregon. What you'll see are first, a spring 2015 landlord training registration form that gives you a rough idea of how this works in Portland. Over 18,000 Portland area owners and managers have attended training sessions since this started in 1989 and then there is a highlighted version of the landlord training manual that they distribute. This is all available online; they have an excellent resource on the City of Portland's government website. The landlord training program is specifically geared toward keeping rental properties safe and free of illegal activity. So it's about managing a property in a way that avoids nuisance problems. The table of contents gives you a sense of the types of material that they cover at these training sessions. They provide an education on Portland's property maintenance codes so what landlords should know about the maintenance code, about how to effectively screen applicants, how to write up rental agreements, about how to do basic management of rental property, how to resolve a crisis, the role that police play in abating nuisances and other problems that might occur at a rental property and enhanced safety properties program where they talk about some enhanced crime prevention, steps that landlords can take. So it recognizes and Madison by having the owners of rental chronic nuisance properties go through a program like this, it recognizes that running a rental property is a complicated business. Especially in a community like this with a relatively weak real estate market so I think it was very interesting that Madison combines a training component for landlords whose properties have been declared chronic nuisances.

Ms. Carrubba: I know we have first time homebuyer programs that are offered. Does anybody do anything like this with landlords? And the Real Estate Investors Association doesn't do anything like that.

Mr. Lindquist: Years back; COI was beginning the construction of a landlord training program.

Mr. Lombardi: And they basically used the Portland manual in doing some of their training. I talked to Bill Vogt from COI and he said that this program ended for lack of funding.

Ms. Carrubba: I was going to say I don't think we're still doing it because I'm on the Board and I thought I hadn't heard about it. That's why I was wondering if CODE or CHRIC or anybody else in the real estate investors were doing it. I think you're right a lot of times the people that you see that are the biggest problems are those who don't really understand. They don't know what their rights are, they don't know what the tenants' rights are and that's when you run into trouble because people are doing things that they shouldn't be doing, but they don't know that they're not supposed to be doing them.

Mr. Lindquist: Is this maybe an activity that could be funded through CDBG?

Mr. DeJoy: It possibly could, but it's another one of those where we would have to contract with someone and that takes away from what we have available for code enforcement.

Ms. Carrubba: But even if there was something, as part of the website, this doesn't; I guess you do have some cost in putting it up on a website, but if there are places that people can go for information so that they know, I know the state used to do things with Fair Housing and all that, but because they've cut back I don't know that that's readily available and a lot of the people don't have computers that probably need this information more than most so it's getting it to those individuals who become the problems.

Mr. Sheldon: My thought is if we enact this code, we can pay for it through the fines.

Ms. Carrubba: Yes that's true.

Mr. Sheldon: Fining landlords \$1,000.00, that could pay for it.

Mr. Lombardi: I think in the case of Portland and Madison, the program is offered through the city attorney's office. It is in Madison. Actually in Portland, I think it's through the inspection, I'm not sure how that city is organized, but it's through the Bureau of Government Services, Portland Police, Portland Fire so it's a combination of bureaus that contribute to this program but it's foreseeable that they could be contracted out, but it seems like a very interesting component to include with something like this, a Chronic Nuisance Property Ordinance.

Mr. Rabb: It would be helpful to know what the cost of running this is because this is a daylong session; they don't charge anything except for the training manual so one of my questions would be how much is this going to cost. Ideally the fines should not be coming in because we don't want people to be fined, we want people to take care of their properties so if we rely on the fines to pay for this it causes a problem because it's almost like an incentive to fine people and that's exactly what we don't want so I'd like to know how much running one of these would cost because we probably would have to contract it out and it's got to be expensive to do.

Ms. Carrubba: I understand what you're saying about the training, but they even offer; they have a manual. Even if we had a manual of information that people could get. Here is, whether you can duplicate it, but just giving them the information because so many of them lack the knowledge of what they're supposed to do. What a good landlord does and what a good tenant does. I think it comes from both sides because not all the tenants are upstanding either and create a lot of problems for some of the good landlords, but even some of these things like screening tenants, how you find out so that you don't rent to a problem tenant.

Dr. Ney: And the fine really is for failure to comply and failure to follow up or failure to respond at all. A lot of these folks may not even be able to pay the fine when you think about it.

Ms. Carrubba: But even now I think, doesn't HUD have the provision if you're engaged in illegal drug activity, they don't care, there's no questions asked, but if you've been charged, you can't even rent in HUD housing anymore. So they've addressed it in a way that there's no three strikes and you're out, it's one strike and you're done forever. There's no forgiveness after ten years, you're done.

Dr. Ney: Oh my gosh. That's drug related cases.

Mr. Lombardi: In the case of Madison, speaking of fines, the penalties there are a little bit different from Milwaukee. Failure to respond in ten days results in a \$1,000.00 fine and failure to respond or carry out an abatement plan results in billing of future costs of enforcement activities. So again you have a cost recovery component there and then allowing nuisance. Allowing nuisance premises to persist results in fines of \$1,000.00 to \$5,000.00 so cost recovery and fines similar to Milwaukee just a slight difference there. In Madison it's shared; oversight by the Police Department and the building inspection. So both the head of the Building Inspections Bureau and the Police Chief, they can both declare a property a chronic nuisance. Similar to Milwaukee, incidents of domestic abuse are an exclusion to the triggers and also notable, and this seems smart, activities recorded by building owners and managers are not counted toward the nuisance tally. So if the landlord is reporting something to the police based on something they observe or a property manager is, that's not counted toward the total that can trigger a Chronic Nuisance Declaration.

Hudson Falls, like I said, similar in many ways to Madison, primarily in that it's a combination of complaints to the police and code enforcement complaints that can trigger a Chronic Nuisance declaration. In their case evidence of three or more nuisance occurrences within a ninety day period can trigger it and nuisances include behavioral reports to the Police Department and building conditions reported to Code Enforcement. For them a warning notice is delivered to the owner requiring a response within seven days to work with the code officer on the abatement plan. It's different in how penalties are levied. The village can initiate an administrative hearing or a judicial action. If they find that the property is a chronic nuisance a fine of \$100.00 is levied for each day that the nuisance was allowed to persist. An injunction can be granted to allow the village to abate the nuisance and bill the owner for any work that the village does to the property. Again, Code Enforcement is the lead on that in Hudson Falls with support from the Police Department. Like I said a few minutes ago, that's the newest one of these ordinances enacted less than a year ago.

I think where further research is to be done at this point, and this is something that maybe the Housing Committee can work with us on, is maybe doing some interviews of people who have had firsthand interaction with the policy in Milwaukee and Madison and in Hudson Falls, especially Hudson Falls since they're just getting it underway. It's a village of about 7,000 people right on the border of the City of Glens Falls which is an urban area of about 50,000-

60,000 when you combine all the villages and cities in that region there so housing conditions that are relatable to Jamestown in many ways.

Mr. Rabb: Do you know what their statistics are on units? Is it similar to ours where 50% are rental or is it still predominantly owner occupied?

Mr. Lombardi: I don't know that. I'll have to look that up, but I would say I think Glens Falls is roughly similar to Jamestown in that regard so I think it would be safe to assume that it's probably a rough split, rental versus owner occupied. So those are the three models there and if there are any questions that any of you can think of that still need to be asked and deeper digging that we can do with these three models just let us know and I invite any of you if you want to do some investigating on your own to call up folks in these three cities and get some questions asked that I think it would help push this discussion forward. We have the ordinance language here to contemplate and think how it might look if Jamestown were to proceed with something like this. But like I said I think special attention has to be paid to the domestic abuse exception. That's something that is not in the Hudson Falls ordinance. So in that respect, the Wisconsin ordinances are worth paying more attention to and then the landlord training as a potential component I think is something that is worth considering.

Mr. Lindquist: Very good to hear. Thank you. Just to dovetail on Peter's comment about the Housing Committee involvement. I think at this point we can go a couple of different ways; JRC can continue to do research independently, but then we come back and then there are questions so it would be better to have the Housing Committee and City Council determine that this is something that they would like to look at, that perhaps a task force be formed that would involve City Council members and could involve Jamestown Renaissance and other concerned community members. That way everybody has the answers that they're looking for at that point in time.

Ms. Carrubba: I think this is really helpful because I'm probably in a ward that's more owner occupied than rental. I still get complaints from homeowner to homeowner. Probably now that the weather's getting better, the calls go up so I know how many more calls I get and how many more homes I go visit and how many more times I might contact the Police Department and right now, I can tell you, my husband and I are dreading the 4th of July because we had a neighbor on the street behind us that was shooting off regular fireworks that you should be shooting off someplace. Yes Bergman. Seriously it was going on for a long time and it had everybody - if you didn't know exactly what it was, they sound like gunshots when they're going off very close to your home. It was awful, so I'm dreading this whole thing and I know that it's probably going to go up and we're trying to figure out what we're going to do. I'm very much in favor of continuing this discussion and trying to get some answers. I think it would help the Police Department because I'm sure you get tired of getting the calls, the same people over and over for loud noise and just doing things to antagonize the neighbors. I try to refer as many as I can to mediation and some will do it and some have worked it out, but there are others who are just, for whatever reason, want to antagonize and keep irritating the neighbors no matter how much you try to back off, try to get them to do something, they continue to go at it.

Mr. Lindquist: Greg I don't want to put you on the spot or anything, as far as the City Charter – if this is to be looked at by City Council, what would the official process look like? Would it be the formation of an ad-hoc task force that would come back and report?

Mr. Rabb: I would prefer, but I'll defer to Marie on this, that we use the Housing Committee for this purpose. I know you have other issues to look at.

Ms. Carrubba: I have no problem with doing it through the Housing Committee and opening it up to if everybody in the Housing Committee wants to participate, if other people on the Council want to be part of it, but I certainly think we need the Chief or someone from Police to come and talk about it because I think it's all of us having to deal with it, trying to figure out a way to relieve them of having to make these calls repeatedly that waste their time when there are other issues that they need to be dealing with.

Mr. Rabb: It might be good, and I would to defer to you and the members of the committee, but it might be a good idea if you and the members of the committee – because I have questions too, but maybe we could put together a list of questions. I've asked a few here, but I think a master list of questions that could come through the Housing Committee that can be referred to JRC, they can be referred to Development, they can be referred to the Chief to see if we can get some more answers to some of the questions that we've already posed this evening.

Ms. Carrubba: We have to include Development as well. I think that they all tie in and I apologize; I was not trying to slight you. I think it would really improve.

Mr. Rabb: Maybe we can ask that, again I'll defer to your judgment, but if people have questions about this ordinance, anyone who's here, anyone within the sound of our voice, send questions to you and you can accumulate them and come up with a master list of questions so that you can be the collection point and then we can go from there unless anyone objects to that.

Ms. Carrubba: That's fine. Did you have a comment Dr. Ney?

Dr. Ney: I only wanted to say that I think that it's important to keep the goal in mind is the livability of our neighborhoods. There are just so many things going on in the City and we can't fix it all, we can't cure it all. Not under our jurisdiction, but what we can do are things like this that would be reasonably acceptable. It may not answer all the questions that people would like to have answered with this kind of a policy or an ordinance. It really could go halfway to maximum work would be. It could go part way to really make the difference in the neighborhoods. I honestly think that people out there would be thrilled to know that our city is sort of behind trying to make the neighborhoods better so more people can move into the area instead of moving out to another side of town or something. That isn't the answer either.

Ms. Carrubba: I can tell you that people get very frustrated and a lot of them tell me after they complain numerous times that they're so tired of it that they're going to move. And that's the problem is that you get people who have been longstanding residents of a neighborhood and when those individuals leave you really don't have a lot of anchors left and that's when a lot of these neighborhoods start to decline.

Mr. Lindquist: Would it be fair at this point to assign a timetable?

Mr. Rabb: I would do it probably incrementally. If we can get questions to Marie so that we can decide what direction those questions should go, whether it's the Chief or Vince or JRC or even legal counsel. I think there's a host of questions that might come up. Maybe we could do a deadline on the questions that we ought to pose and send to you to collect.

Ms. Carrubba: June 1st would give people about a month or do you think that that's too long?

Mr. Rabb: Well you have another work session, then you have the voting session and then you have the holiday so I don't think that's unreasonable. What's today, the 4th? I think the sooner the better.

Ms. Carrubba: I can do it sooner.

Mr. Rabb: Maybe within 2 weeks. Get the questions in by the voting session which I believe is the 18th.

Mr. Sheldon: We can discuss this again at the next housing meeting.

Mr. Rabb: Even if people can come up with questions by next week. Maybe make the deadline May 18th. I'm assuming you're going to have another meeting. I could certainly put together a list of questions that I have in time for May 11th and forward them to you.

Ms. Carrubba: Is that agreeable?

Mr. Sheldon: We can bring them to our next meeting, May 11th.

Mr. Rabb: I would ask everyone to think of questions. Some of which we've talked about, some of which I haven't even brought up.

There being no further business, the meeting was adjourned.

James N. Olson
Director of Financial Services/City Clerk