**MINUTES**
**Committee on General Services**
**Tuesday, January 16, 2018 @ 4:00 p.m.**
**City Council Chambers, City Hall 10th Floor**

## CALL TO ORDER
The meeting called to order at 4:00 p.m. by Council Member Hussain.

## ROLL CALL
Councilmember Patricia Spitzley, Chair- arrived at 4:18 pm
Councilmember Adam Hussain, Vice Chair
Councilmember Carol Wood, Member

## OTHERS PRESENT
Sherrie Boak, Council Office Manager
Nick Tate, Assistant City Attorney
Scott Sanford, Code Compliance
Stan Parker
Council Member Washington
Joe Abood, Chief Deputy City Attorney
Art Ostaszewski
Jerome Heathcote

## Minutes
MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM NOVEMBER 13, 2017 AS PRESENTED. MOTION CARRIED 2-0.

## Public Comment on Agenda Items
No public comment at this time.

## Discussion/Action
RESOLUTION – Claim Appeal #1481; J. Heathcote; Vacant Lot Glenburne; $395.50
Mr. Sanford informed the Committee that the violation occurred in July 2017 and was rechecked on July 14, 2017. The violation was still present, so the contractor was notified and arrived July 24, 2017 and mowed. Mr. Sanford noted that their records did not have a phone number for the owner for them to call, and at this time recommended denial.

Mr. Brewer stated the Claims Review Committee saw the claim first due to its amount and after review of the information, pictures and contactor invoice denied the claim.

Mr. Heathcote, referenced the documents in the packet and stated his contractor mowed it on July 10th, so he did not believe the inspector looked at the correct lot on July 14th when they made their determination. He added that his contractor was out on July 25th and mowed, which was one day after the contractor stated they mowed. He stood by his contractor and their work performed. His contractor has been directed to mow every two weeks, per earlier requests from Code Compliance in the past. Mr. Heathcote then asked Mr. Sanford why there were no pictures taken by the inspector on July 14th when they did the re-inspection. Mr. Sanford confirmed that if it is not incompliance on the recheck they do not take pictures but just submit it to the contractor.

Council Member Wood referred the Committee to the packet of information, and acknowledged that the letter did go out to the owner, and noted the recheck date. After the review of the photos, and recommendation from Claims Review Council Member Wood made her recommendation.

MOTION BY COUNCIL MEMBER WOOD TO DENY THE CLAIM #1481 FOR THE VACANT LOT ON GLENBURNE OWNED BY JEROME HEATHCOTE IN THE AMOUNT OF $395.50.

Mr. Heathcote appealed that his contractor did the work.

MOTION CARRIED 2-0.

Council Member Hussain moved the Claim Appeal from Eastside Community Center to the end of the agenda per the request from Council Member Wood.

RESOLUTION – Claim Appeal; #1453; A. Ostaszewski; 114 W. Willow; $3,652.00
Mr. Sanford read the staff report, noting the notice was sent to the claimant on May 24, 2017 with a compliance date of May 31, 2017. Mr. Sanford the claimant has contacted his office multiple times and was aware of the notices. His office was directed by Law to pursue the cleanup of the site and it was performed by the contractor.

Council Member Wood asked Mr. Tate to speak to the claim since it appeared before the Committee in 2017 and then was withdrawn from Committee because the claimant was seeking legal action against the City. Mr. Tate confirmed that at the last meeting of Committee in 2017 there was pending litigation, but the OCA no longer has a concern with the Committee reviewing the claim and can proceed.

Mr. Ostaszewski distributed additional packets of photos and a site plan showing the easement on his property he noted as protected wetlands and a flood plain. The photos represented camera shots of the code enforcement and contractor entering onto his property from a surveillance camera. Mr. Ostaszewski admitted to a joint inspection on June 1st and an additional walk through on June 15th. Mr. Ostaszewski appealed that per his opinion of the City Ordinances, the code compliance officers were in violation of their procedures because he did not believe they had the right to enter onto his property. His appeal was that the Code Officer should only be able to cite the violations they see without entering his property. Mr. Ostaszewski then distributed a handout of his understanding of the violations, hours and fees of the contractor. Outline in his materials were items he stated he was using for scrap-fest, and tree limbs he was using as landscape borders. Mr. Ostaszewski stated he reached out to Mr. Sanford to meet on site, however was denied the visit, however did meet with Rhonda Oberlin regarding the natural settings and took her advice on natural borders. In regards to the

statement on the notice that says the contractor can remove additional violations when they arrive on site, his opinion was that the contractor over charged and took more than they should.

Council Member Spitzley referred to the contractor invoice, and asked by it stated they had to call the inspector. Mr. Sanford stated it was noted because when they arrived on site, the owner had blocked off all areas of access, so they had to hand carry every violation, which took longer.

Mr. Ostaszewski appealed the note on the bill for removal of carpet, referencing the photo in his materials which showed the carpet was still in his garage, again stating the contractor over charged.

Council Member Spitzley asked if the "no trespassing" was posted after the violations began, and Mr. Sanford confirmed that the contractors went by the site the day before they began work to determine how much labor and equipment they would need and there were no signs, then when they went back to start the signs were posted and all the cars were moved to block the driveway and access to the violations. Mr. Ostaszewski stated the contractor never stated they were coming on that day, and again referenced photos of items that were taken.

Council Member Wood pointed out to Mr. Ostaszewski that Ms. Oberlin is not part of Code Compliance and her suggestions to a claimant on how to address items is not the resolve and she does not have the authority to address a violation from Code Compliance. Mr. Tate confirmed that code compliance issues should be routed through Code on what is accepted and what isn't. Council Member Wood then pointed out to the claimant that a large brush pile is not a "living hedge" and can be kept. Mr. Sanford then detailed what steps have to be taken by the contractor when removing brush, which includes hauling off site, have it chipped, then taken to the landfill. Covering up something does not abate anything, if they see something they can write up an additional violation. Mr. Sanford noted this has been taken to two judges for their determination already. Council Member Wood then asked Mr. Sanford why there was a difference between the estimate and actual bill. Mr. Sanford stated the estimate is what the initial inspection was figured, but when the contractor arrived there was more and it took a longer amount of time. Code Compliance again recommends denial of the claim. Council Member Spitzley asked if the inspections were legal, and Mr. Sanford confirmed that it was ruled on by two judges. Council Member Spitzley then asked about the significance of the mentioning of the easements, and Mr. Sanford also confirmed that the easement was not noted legally on the property until after the work was done. The property is in a flood plain, but that does not prevent from the owner from being required to cutting grass or Code Compliance from doing their job. Mr. Ostaszewski stated it was not a judge's ruling but was in small claims, and it was denied because he did not include the City in the paperwork. Mr. Tate interceded and clarified that the case was dismissed under government liability, the second case against the enforcement officer was dismissed, but the plaintiff was allowed to amend the claim because of governmental torque. That case is still pending. Council Member Spitzley then asked if the Committee should even be discussing the item or wait until it is adjudicated. Mr. Abood stepped into the conversation and confirmed the claimant was recommended to avail, but the claim is not here to get into litigation. Council Member Spitzley pointed out that the claimant keeps mentioning litigation, and if the claimant has been asked to avail, then if he keeps talking about litigation, that is an issue. Council Member Wood asked Law if the Committee made a determination if it would hurt the ongoing litigation. Mr. Abood stated it would not, and the City is refiling a motion to dismiss and has no impact on this complaint. Council Member Spitzley reminded the Committee that any further discussion and determination must be limited to the complaint and they cannot talk about what is in litigation.

Mr. Ostaszewski continued his appeal and concluded by stating his opinion that the bill was too high.

MOTION BY COUNCILMEMBER WOOD TO DENY THE CLAIM #1453 FOR 114 W WILLOW BASED ON THE INFORMATION PROVIDED BY CODE COMPLIANCE, LAW AND CLAIMS REVIEW. MOTION CARRIED 3-0.

Mr. Ostaszewski was informed the claim would be before the Council on January 22, 2018.

RESOLUTION – Claim Appeal; #1454; A Ostaszewski; 114 W. Willow; $362.50
Mr. Ostaszewski presented handouts on the grass violation. As stated in the earlier claim, he stated his opinion that the property is in a flood plain, and in this claim stated the City never identified where the tree line was for maintaining on their June 1st joint inspection. He noted that Code enforcement rules say 8" but his opinion was that anyone in the flood plain area could not mow the whole area, and his belief that the City does not have jurisdiction in State protected wetlands.

Council Member Spitzley asked Mr. Sanford to reference the photos for an explanation on the location of the mow area, height of grass and violation. Mr. Sanford stated that if the lot is more than 2 acres they are required to mow 500' back. He again stated the area is not a designated wetland, but at this time was in the flood plain. Being in the flood plain does not alleviate anything in the City from being enforced. He could not confirmed how far back the contractor mowed, but it appeared they went back as far as they could which was the tree line. Mr. Ostaszewski again noted that Code never told him where the line was that he had to mow up to. He then continued with his handout and again noted his opinion on the determination of the wetlands and flood plain. He noted under a FOIA he had obtained a transcript of a communication from Code. Council Member Spitzley reminded him that it was already determined that the wetland was not established until after the violation occurred. Council Member Wood asked Law if a FOIA Request was submitted by Mr. Ostaszewski for a written transcript of a communication, and if it was provided. Mr. Abood stated he was not aware of a FOIA from Mr. Ostaszewski for that communication. Mr. Ostaszewski corrected his earlier comment and stated it was not a communication transcript, but a memo to the DEQ is what he was citing. His opinion at this time was that mowing imposes on the nature growing area of the wetland. He asked Council to agree the wetland is protected moving forward. Council Member Spitzley stated that less than 5 acres can be regulated by the local municipality, and if it is less than 5 acres then the local must grant a permit. Concluding, that this topic was not relevant to what the Committee was talking at this meeting. Mr. Sanford stated there is nothing in the State law, and so the City Ordinance is more restrictive and takes precedence. Again he noted, it was not deemed a wetland until after the violation.

Council Member Wood stated to Mr. Ostaszewski that the City has adopted the International Property Maintenance Code, and amended the regulation height of tall grass to 8", and that trumps anything else. Mr. Abood assured the Committee that the statement was correct and within the context of the issue. Council Member Wood then asked Code if other properties within the area were cited, which he did not have an answer for at this time. Mr. Abood informed the Committee that now that Mr. Ostaszewski has stated no one else in the neighborhood has had to mow and theirs is just as high, Code Compliance will start enforcing the violations based on that complaint.

Council Member Spitzley asked if the City consistently enforced code compliance across the board. Mr. Sanford stated they have adopted the International Property Maintenance code and

it applies to building code as well. The process is followed for the maintaining of a yard at no higher than 8" on vacant and occupied lots. Once they receive a notice of a violation, they notify the homeowner who then has 7 days to correct it. On the 8-9th day, it is re-inspected and if the violation still exists, it is submitted to the contractor. The contractor then has 10-14 days to clear the violation. The bill is assessed to the taxpayer of record, if it is not paid it will appear on the next tax bill. So from the time of the complaint to compliance could take 3 weeks. If the contractor arrives and it is resolved the records will show the violation was abated by the owner.

Mr. Brewer confirmed the claim was in front of the Claims Review Committee and after review of the information and pictures the claim was denied.

Mr. Ostaszewski asked if the Committee determines the Code Inspector was trespassing. Council Member Spitzley stated if there is a violation the inspector can be on the property, and trespassing cannot be discussed because it is part of the pending litigation.

MOTION BY COUNCIL MEMBER HUSSAIN TO DENY THE CLAIM APPEAL #1454 FOR 114 W WILLOW IN THE AMOUNT OF $362.50. MOTION CARRIED 3-0.

Mr. Ostaszewski was again informed the claim would be before the Council on January 22, 2018 and he would have 3 minutes to speak at that meeting for each agenda item.

**RESOLUTION – Claim Appeal; Eastside Community Center**

Council Member Wood explained that the applicant had been before the Committee in 2017 when there was an issue with their taxes, and those were then directed to and taken care of at the Tax Tribunal/Board of Review. Based on the misunderstanding that the items were corrected at the Board of Review the Committee took no further action. However she stated, the nuisance violation special assessments were not addressed at Board of Review, they have returned. Council Member Wood stated the 2017 Committee's intent was to grant the appeal, therefore she was proposing the motion to grant.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE CLAIM FROM EASTSIDE COMMUNITY CENTER IN THE AMOUNT OF $1,976.30 FOR ASSESSMENTS ON THEIR TAXES FOR NUISANCE VIOLATIONS. MOTION CARRIED 2-1.

**Other**

Council Member Spitzley (Committee Chairperson) moved the regularly scheduled meetings of the Committee on General Service to the 2nd and 4th Tuesday of every month, with the next meeting to be February 13, 2018 at 4 pm. She then informed the Committee that Eric Brewer, Council Internal Auditor will be attending all Committee on General Services meetings until told otherwise to report out on the Claims Review Committee decisions.

Council Member Wood asked Council Member Spitzley to invite Code Compliance and their contractor to the next meeting to provide information on their practices. Council Member Spitzley asked Mr. Sanford to attend the February 13, 2018 meeting for that discussion.

**Adjourned**

Adjourned at 5:13 p.m.
Submitted by Sherrie Boak,
Office Manager, Lansing City Council
Approved by the Committee on February 13, 2018