

The stated meeting of the Code Enforcement and Land Development Committee of the Board of Commissioners of the Township of Abington was held on Monday, June 29, 2015 at the Township Administration Building, Abington, PA., with Commissioner Sanchez presiding.

**CALL TO ORDER:** 8:34 p.m.

**ROLL CALL:** Present: Commissioners SANCHEZ, MARKMAN, MYERS, GILLESPIE  
Excused: DiPLACIDO

Township Manager LEFEVRE  
Township Solicitor CLARKE  
Director of Code Enforcement MATTEO  
Township Engineer POWERS

Also Present: Commissioners LUKER, KLINE, SCHREIBER, JONES, BOWMAN, KALINOSKI, ZAPPONE, HECKER

**MINUTES:** Commissioner Sanchez made a MOTION, seconded by Commissioner Gillespie to approve the minutes of the June 1, 2015 Code Enforcement and Land Development Committee Meeting.

MOTION was ADOPTED 4-0.

Ordinance No. 2097 – Ordinance Enacting Chapter 126 “Real Estate Registry Vacant Properties”

Commissioner Sanchez made a MOTION, seconded by Commissioner Gillespie to adopt Ordinance No. 2097, Enacting Chapter 126 - “Real Estate Registry Vacant Properties” for the Board of Commissioners consideration on Thursday, July 9, 2015 at 7:30 p.m.

Commissioner Markman questioned whether it is a conflict for him to vote on this item as he sits on the Board of the Montgomery County Redevelopment Authority.

Solicitor Clarke replied there is no conflict as there will be no monetary benefit from being a member of the Redevelopment Authority.

Commissioner Kline also questioned whether it is a conflict for him as he sits on the Board of the Montgomery County Planning Commission.

Solicitor Clarke replied there is no conflict.

Mark Penecale, Planning & Zoning Official, gave a power point presentation on proposed Ordinance No. 2097 - Real Estate Registry Vacant Properties.

The purposed of this ordinance is to require the registration of nonresidential buildings within Abington Township. The adoption of this ordinance will assist the Code Enforcement Department with property maintenance of these buildings and sites. The adoption of the ordinance will also assist the Economic Development Committee and the Committee Development Office with the planning of improvement projects within the Township. The adoption of this ordinance will assist both the Fire and Police Departments with emergency management of these properties.

This ordinance provides definitions that clearly outlines the Township's meaning for terms such as occupied, open, owner and vacant. This ordinance provides a timeline for registration of any building that has been vacant for 45 consecutive days. This ordinance requires the filing of a registration form that will include the name, address, email and working phone numbers for all owners and a point of contact for emergencies. This ordinance requires at least one point of contract that resides with the State of Pennsylvania.

Each registration is good for one year, and after the expiration, a new registration form is required to be submitted.

A fee of \$500 shall be imposed for any property owners that have not registered their vacant building after 45-days time period. A fee of \$1,000 shall be imposed for any property owner that has not registered their vacant building after a six-month time period. A fee of \$1,500 shall be imposed for any property owner that has not registered their vacant building after a one-year time period. The Board of Commissioners has the power to waive the \$500 registration fee upon written request from the property owner; however, the property still is required to be registered.

Photos were shown of properties that have been vacant for a long time.

This ordinance is strictly for commercial sites, and in order to be deemed a vacant property, 60% of the total square footage has to be vacant.

Commissioner Sanchez asked for any comments from Commissioners.

Commissioner Gillespie clarified that the Township will get contact information from these property owners. Is that correct?

Mr. Penecale replied that is correct.

Commissioner Sanchez questioned how the 45-day time period was determined.

Assistant Legal Counsel Gallagher replied that timeframe was listed in some of the sample ordinances we reviewed. There is a six month extension of that 45-day period if the property is being actively marketed and it is at the Board's discretion to waive the \$500 registration fee during that timeframe, which is a one-time waiver.

Commissioner Luker referred to the provision that says, "the adoption of this ordinance will assist Code Enforcement Department in the property maintenance of these buildings and sites," is that in reference to the Township maintaining the property and placing liens on it to recover costs as it is done with private properties?

Mr. Matteo replied yes, that practice will continue.

Commissioner Luker clarified that costs are tracked for liens for residential and nonresidential properties. Is that correct?

Mr. Matteo replied yes.

Commissioner Luker asked for the cost to maintain nonresidential properties.

Mr. Matteo replied he does not have actual costs at this time, but will report back on it.

Commissioner Myers commented that she understands that registration is important, but she feels the waiver provision is not liberal enough.

Commissioner Markman expressed concern about fines imposed upon property owners who maintain their properties, but are not able to find tenants, which happens often. Would there be discretion on the part of Township staff?

Solicitor Clarke replied it is not a fine, it is a fee, and the fee is linked to additional costs incurred by the Township.

Commissioner Markman said proposed ordinance indicates a waiver of six-months, but after six months, if the property owner is actively marketing their business, they should be granted an extension of another six months.

Commissioner Schreiber expressed concern that if the business has already been vacant for a long time; how is the determination made that the property owner is actively marketing it?

Ms. Gallagher replied there may be properties vacant up until the time of the passage of this ordinance and the timeframe will begin as of the date of adoption. If a property has been vacant for a long time after the adoption of the ordinance, there are penalty provisions in the ordinance for failing to file a registration form, which is separate and apart from the fees.

Commissioner Schreiber clarified that extensions do not need to be granted at all. Is that correct?

Ms. Gallagher replied that is correct.

Commissioner Gillespie questioned whether the property owner would need to show proof of actively marketing the property.

Ms. Gallagher replied yes, the burden of proof is on the property owner.

Commissioner Jones suggested a graduated fee schedule for extension of waivers.

Commissioner Markman said he would rather amend proposed ordinance to allow for an extension of waiver for a second, six-month time period if the property owner is actively marketing it.

Commissioner Kline expressed concern about notifying vacant property owners from day one after the ordinance is passed.

Ms. Gallagher replied the Township has a list of vacant nonresidential property owners and they would be notified of the adoption of the ordinance and, if they fail to register within the timeframe, they will be sent a notice of violation.

Solicitor Clarke added that every year registration forms are sent to business owners regarding their business licenses and a notice of this ordinance would be included.

Commissioner Kline referred to Exhibit A – Waiver of Registration Fee - Item ii that says, “The anticipated length of time for the demolition, rehabilitation or other substantial repair of the vacant building,” and clarified that owners would need to apply for building permits for these items. Is that correct?

Ms. Gallagher replied yes. That was added due to concern about properties that are being fully renovated that may take longer than the 45-day time period.

Commissioner Kline suggested changing Item i and ii to say, “That a waiver shall be granted if the property owner satisfactorily demonstrates that they have an open permit.”

Ms. Gallagher replied that could be done, but she is not sure whether there are time limits on permits issued by the Township.

Mr. Penecale replied there are time limits on permits.

Commissioner Kline asked if the Board of Commissioners decides not to grant a waiver, can it be appealed to the Common Pleas Court.

Ms. Gallagher replied yes.

Commissioner Kline questioned how many inspections would be done as the fees seem excessive.

Solicitor Clarke replied by law, the Township is not required to show that fees charged are exact costs for inspections, and the fees are reasonable and directly relate to what the Township is expending.

Commissioner Kline referred to Exhibit A – Exceptions – that says, “This section shall not apply to any building owned by the United States, the Commonwealth, the Township nor any of their respective agencies or political subdivisions.” Is the Township required to give an exception?

Solicitor Clarke replied yes. Local ordinances cannot be enforced against Federal and State government.

Commissioner Markman made a MOTION to AMEND the MOTION to amend Ordinance No. 2097 to allow up to four (4), six (6)-month extensions before a fee of \$1,000.00 shall be imposed for any property owner that has not registered their vacant building, seconded by Commissioner Myers.

MOTION to AMEND the MOTION – PASSED 4-0.

MOTION as AMENDED – PASSED – 4-0.

Ordinance No. 2098 – Ordinance Enacting Chapter 49 – “Vacant Property Review Board”

Mr. Penecale gave a power point presentation to the Board on proposed Ordinance No. 2098 - an ordinance enacting Chapter 49 – “Vacant Property Review Board.”

This ordinance creates a Vacant Property Review Board. The VPRB will consist of seven (7) members, appointed by the Board of Commissioners. The Board will be made up of the following:

- One member of the Board of Commissioners.
- The Executive Director of Redevelopment Authority or his/her designee.
- One member of the Montgomery County Planning Commission.
- One member of the Abington Township Planning Commission.
- Three additional members appointed by the Board of Commissioners.

Urban Redevelopment Law – The purpose of this ordinance is to empower the Township of Abington to determine if a property is blighted as per the requirements of the Urban Redevelopment Law. The Vacant Property Review Board will have the authority to develop rules and regulations for properties deemed to be blighted. These rules and regulations must be in compliance with the federal, state and local regulations.

They will act as the advisory board to the Board of Commissioners in the acquisition of these blighted properties.

Requirements of a Blighted Property – This ordinance requires notification to the owners by Montgomery County that a property is deemed blighted and that a notice must contain the corrective actions required to bring the property into compliance to be removed from the status of “blighted.” This ordinance contains the ability of appeal by the owner on the status of a “blighted property.” This ordinance also provides regulations of the disposal of properties deemed to be blighted, but outside a defined “Redevelopment Area.”

The Redevelopment Authority buys properties in the redevelopment zone and funding does not come from the Township, but through the Redevelopment Authority. It covers the entire Township even though the property is not in an area that is not within the Redevelopment Authority’s guidelines.

Commissioner Sanchez asked for any comments from Commissioners.

Commissioner Luker clarified that this is only for commercial properties. Is that correct?

Ms. Gallagher replied this ordinance applies to residential and nonresidential properties. We met with the Executive Director of the Redevelopment Authority and they find there are more abandoned residential properties than nonresidential.

Commissioner Markman commented that it is effective for a foreclosure property where it has been neglected, dangerous, falling apart and determined a blighted property. It has been a tremendous tool for many municipalities in the County.

Commissioner Luker questioned when a property is determined to be “blighted,” how does it affect other property values in the area?

Commissioner Markman replied by the time the “blighted” label is placed on a property; it has already negatively affected every home in that neighborhood.

Commissioner Myers questioned whether this would be a standing committee who meets monthly and would staff of Code Enforcement Department support this committee as they do for the Planning Commission.

Mr. Matteo replied yes.

Ms. Gallagher noted there is no specific monthly requirement. The Board will establish their own meeting schedule.

Commissioner Hecker asked how it will be decided which Board members sit on this committee?

Ms. Gallagher replied the Board members would volunteer.

Commissioner Schreiber said if there were a “string” of commercial properties by the same owner and one or two are blighted, is the entire “string” considered “blighted?”

Ms. Gallagher replied the ordinance defines any premise, any dwelling or structure and she assumes the Redevelopment Authority would want to address the entire property rather than individual store fronts, but technically, it is the individual store fronts that fall under this ordinance. The Vacant Property Review Board would make recommendation to the Redevelopment Authority on whether or not to focus its effort on that individual property.

Commissioner Schreiber suggested that there should be a quantified way so that each time a waiver is granted, the property owner needs to show more and that they deserve another waiver.

Commissioner Myers said sometimes the property owner is just waiting for a lease. That is why it would be a discretionary application.

Commissioner Schreiber asked would there be a process in place so that it is objective and not subjective?

Solicitor Clarke replied no. Part of it will take into account marketing conditions.

Commissioner Kline clarified that the Redevelopment Authority as well as the Planning Commission are willing to provide a staff member to sit on the Vacant Property Review Board. Is that correct?

Ms. Gallagher replied we met with the Executive Director of the Redevelopment Authority and municipalities that have this ordinance in place requires a member of the Redevelopment Authority to sit on this Board and the Township’s Planning Commission recommended approval of the ordinance.

Commissioner Markman made a MOTION, seconded by Commissioner Gillespie to adopt Ordinance No. 2098 Enacting Chapter 49 – “Vacant Property Review Board” for the Board of Commissioners’ consideration on Thursday, July 9, 2015 at 7:30 p.m.

Commissioner Sanchez asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, asked for an explanation on how the Redevelopment Authority would acquire properties.

Ms. Gallagher replied the Vacant Property Review Board would certify properties as condemned and notify the Redevelopment Authority for its consideration, and if a property was chosen, there would be substantial notice requirements. They would work with the property owner, and under the Urban Redevelopment Law, the Redevelopment Authority would acquire the property with public funds and turn it over to a private developer for redevelopment.

Solicitor Clarke added that municipalities are permitted to condemn properties, but are not permitted to turn them over to private developers; however, the Redevelopment Authority has that ability.

MOTION was ADOPTED 4-0.

Resolution No. 15-024 – Transfer of Liquor License No. R-19572 – Oreland Associates II, LLC - Bernie’s Restaurant – 391 Highland Avenue

Commissioner Sanchez made a MOTION, seconded by Commissioner Myers to advertise the public hearing on Resolution No. 15-024, scheduled for 7:30 p.m. on Thursday, August 13, 2015, in the 2<sup>nd</sup> Floor Boardroom of the Abington Township Administration Building, located at 1176 Old York Road, Abington, PA. 19001.

Commissioner Sanchez asked for any comments from Commissioners. There were none.

Commissioner Sanchez asked for any public comments. There were none.

MOTION was ADOPTED 4-0.

Commissioner Sanchez asked for any general comments relating to Code Enforcement and Land Development.

Lora Lehmann, 1431 Bryant Lane, asked for a page on the Township website for ordinances.

**ADJOURNMENT:** 9:47 p.m.

Respectfully submitted,

Michael LeFevre, Township Manager

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