



**City of Newport
City Council Workshop Meeting Minutes
March 6, 2014**

1. ROLL CALL -

Council Present –Tom Ingemann, Bill Sumner, Steven Gallagher, Tracy Rahm

Council Absent – Tim Geraghty,

Staff Present – Deb Hill, City Administrator; Bruce Hanson, Superintendent of Public Works; Curt Montgomery, Police Chief; Renee Helm, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer;

Staff Absent - Mark Mailand, Fire Chief;

2. DISCUSSION REGARDING ORDINANCE FOR DISTRESSED PROPERTIES

Attorney Knaak presented on this item as outlined in the March 6, 2014 City Council Workshop packet.

Councilman Gallagher - You don't know of any other city that is doing this?

Attorney Knaak - I don't.

Councilman Gallagher - So hypothetically, someone who leaves every summer and doesn't mow their lawn for three consecutive years so they get a violation, with this it's saying we can put them in jail or have an \$800 fine.

Attorney Knaak - I can put them in jail right now. It's a misdemeanor in any case. What we're doing here is increasing the floor of the minimum fine. You can't impose more than a \$1,000 fine and the Courts typically impose a \$50 fine. So this is increasing the minimum fine. It does require enforcement and us charging them for the multiple offense.

Councilman Gallagher - I understand that we're looking for the chronic offenders with this but I'm thinking about the individuals that go on vacation every year and their neighbor is mad at them so they call the CSO about their lawn and the CSO writes them a ticket.

Attorney Knaak - The purpose of the ordinance is to reduce the amount of discretion and impose a fine.

Councilman Gallagher - I think we need to have some discretion in our enforcement at the same time. We do have some bad properties that this would have been great for.

Chief Montgomery - We've had it where we issue warnings for elderly individuals who can't do something like put the new tabs on their vehicle so our CSO did that because they called and explained themselves when they got the warning. There's flexibility we have to have too.

Attorney Knaak - The flexibility doesn't go away with this. Unless we know it's a troubled property, it probably won't come to my attention. Most of these charges that come in, the discretion will continue. You'll be the ones that will need to know if it's a chronic issue or not.

Chief Montgomery - Ok.

Councilman Gallagher - What do you do for a business? Like the Veolia property was terrible for a while, did you send out tickets for that?

Chief Montgomery - Yes, they would get the warning and then come out and mow.

Individual from Audience - Has the City ever taken in revenue from fines?

Attorney Knaak - Yes and this is no different from any other crime or misdemeanor. The problem is, I think, unless you're dealing with an obvious nuisance and hazard, the Court will probably treat this like a petty misdemeanor and not react as severely as a careless driving case.

Individual from Audience - To me it seems perfectly clear, if the codes are on the books, why aren't they enforced? I look at the newsletters that come out and you have a list of all of the nuisances and everyone has an offense. There is not a house on my block that doesn't have a vehicle in the front yard. We went through three years of hell on 4th Avenue and I don't know if it's sold. Is it sold?

Admin. Hill - Yes.

Individual from Audience - Why is he still there? Have the permits been pulled for this new owner?

Admin. Hill - Yes.

Individual from Audience - I called you Chief and you didn't know it was being sold and sent an email to Deb Hill to see if permits were pulled. There is no communication.

Chief Montgomery - The permits are not pulled from us.

Individual from Audience - But shouldn't there be communication on a problem property?

Chief Montgomery - I didn't know when the sale was going to go through but I knew it was for sale. The new owner may allow the previous owner to come there.

Individual from Audience - I know you'll say this is old history now because it's sold but it's just a matter of what goes on in the City.

Another Individual from the Audience - I think this residence is a poster child for why this is happening today. We don't want this to be anyone else's neighbor. I don't think the ordinance should be for people not cutting their lawn, it should be for the problem properties.

Councilman Gallagher - That's why we have this before us tonight. The problem is that this is for any nuisance violation. We can't say there are greater nuisance violations than others. I don't want it to be like that either.

Mayor Pro Tem Ingemann - Like the Chief said, the warning typically solves the problem but if they ignore the warning then they are issued a ticket. This ordinance escalates it if it becomes a chronic issue.

Chief Montgomery - Fritz, the judge can waiver from this can't they?

Attorney Knaak - That's an interesting question. I'll argue that they don't have the discretion if we have a mandatory sentence on there.

Councilman Gallagher - This is essentially like mandatory minimum sentences from the State Legislature correct?

Attorney Knaak - Yes and they can waive those under specific circumstances. If a judge waived these penalties, I would report it to you, presumably it would be reported in the newspaper and they would need to deal with the consequences of that.

Councilman Rahm - Some of these ordinances, I think we need to look at and see if they're realistic.

Councilman Sumner - I've heard from several people and they said that they got a notice for their lawn during the heat spell and got called to court because their dad, who is in his 70's, held off on mowing the lawn during the heat spell. I think it's a sad state of affairs when we can have someone dragged in for having tall vegetation in their yard before getting a violent, serial sex offender out of town. I think laws need to be looked at with that in mind. What are the priorities? I would rather have the officers focus on break-ins and other crimes. Some cases, yes, there are extreme circumstances but some people are barely getting by and to have the cops after them... I don't want to see a vigilante type of treatment and I think that's where this is going. I'm uncomfortable with it. I think this is going in the wrong direction. I think we need a whole lot of discretion.

Councilman Rahm - So you're against an ordinance like this?

Councilman Sumner - I haven't pondered on it but going after people with an ax because they have stuff in their yard is way beyond what I want to support.

Councilman Rahm - That gets to another issue that I thought would be part of this which is what brings a property to this level.

Mayor Pro Tem Ingemann - It would be the number of calls.

Chief Montgomery - Sometimes it can get to the point of it's one person's treasures and one person's junk and the CSO needs to have good judgment on cases like that.

Councilman Gallagher - I'm looking at this 20 years from now where we have brand new officers and it could be taken advantage of.

Councilman Sumner - We had that, where people were targeted and people didn't like that. Every enforcement requires a balance and I think there's an issue that's legitimate of your concern.

Councilman Gallagher - This would have been perfect for their case.

Councilman Sumner - Would fining him have done anything different?

Councilman Gallagher - I think it would have pushed him more. Can you have tiers of nuisances?

Attorney Knaak - This goes through a filtering system with the Police Department and by the time it gets to our office and we have a charge, there's been a lot of discussion on it. There are a lot of ways that these can be handled with some discretion and I would argue it is. The debate you're having has been had before and it seems to happen every three or four years. My sense is that there are some complaints that it's being under enforced right now and so there's some things that can be done to tweak that. Overall, it's a decision on your end that you want it enforced consistently and then that will be done.

Councilman Rahm - I've heard that residents want it to be consistent.

Chief Montgomery - It's hard to be consistent because of the chronic issues or when you have someone that is

not able-bodied. The CSO has the toughest job as far as making a judgment call and they need to have common sense.

Individual from the Audience - How do we enforce rental properties?

Chief Montgomery - We go after the landlord and have inspections every three years.

Councilman Rahm - One of our strategies is to improve the appearance of Newport. We need to look at our policies and codes to help enforce them and do it in a common sense way so that we're not under or over enforcing.

Mayor Pro Tem Ingemann - The word here is chronic, so this would be something that is an issue over a period of time.

Councilman Gallagher - Can you change this to two violations in one year, three violations in two years, and four violations in three years? I would be more willing to support that.

Attorney Knaak - Yes. This ordinance should not stop you from using civil remedies as well such as abatement.

Councilman Rahm - Don't we normally give warnings first?

Chief Montgomery - Yes and the CSO will work with someone as well if they contact him after the warning is issued and show that they are taking care of the issue.

Mayor Pro Tem Ingemann - Ok, so you have an idea of what to change and then bring it back.

3. DISCUSSION REGARDING FATS, OILS, AND GREASE ORDINANCE

Jon Herdegen, City Engineer, presented on this item as outlined in the March 6, 2014 City Council Workshop packet.

Councilman Ingemann - Is an interceptor like a sand trap?

Engineer Herdegen - Yes.

Councilman Rahm - Some businesses are reclaiming grease now because it's worth money so it no longer goes down the drain.

Councilman Gallagher - How much does this cost?

Superintendent Hanson - It will depend on how much retrofitting will need to be done.

Councilman Sumner - Does it go underground?

Superintendent Hanson - It would be right before it hits the main service line. We'll require the same thing from all food preparation businesses. Each type of business has their own requirement.

Councilman Sumner - How do they clean it?

Superintendent Hanson - It's accessible, it would be about three or four feet deep.

Councilman Gallagher - How much does it cost to pump out our lift station?

Superintendent Hanson - About \$1,500 each time.

Councilman Sumner - And those charges are assessed against the businesses?

Admin. Hill - No, our sewer enterprise funds eats that.

Councilman Sumner - Can we identify whose causing that?

Superintendent Hanson - Pretty easily yes. It's too late once you get to that point.

Councilman Rahm - From my experience, the problem is because they're dumping grease down the drain.

Superintendent Hanson - Yes but if you have a proper grease trap it can't go down the drain.

Councilman Sumner - Have we talked to the businesses in town?

Admin. Hill - No.

Councilman Gallagher - We should notify them.

Councilman Sumner - I would hate to force someone to spend money to put this in if there's no issue.

Admin. Hill - If they have food preparation, they have grease.

Mayor Pro Tem Ingemann - So notify the businesses of this.

Admin. Hill - Yes, we'll come up with a list.

Councilman Gallagher - I think we should try to get contact information for all businesses in Newport.

Executive Analyst Helm - We could get that.

Engineer Herdegen - One item that you should look at is the penalty section, those are numbers that I came up with.

Councilman Gallagher - Did you look at neighboring cities?

Engineer Herdegen - I did and most of them didn't have an ordinance on this.

Councilman Gallagher - Fritz, have you looked at this?

Attorney Knaak - No, I can before it comes back for approval.

4. DISCUSSION REGARDING MS4 ITEMS

Jon Herdegen, City Engineer, presented on this item as outlined in the March 6, 2014 City Council Workshop packet. The City has 12 months once the permit is approved to come in compliance with these issues. The City needs to do the following to come into compliance.

- Create an illicit discharge ordinance
- Ordinance update regarding stormwater runoff control and site inspections and records of rainfall events
- Ordinance update to include Total Suspended Solids and Total Phosphorous Limits

- Map the storm sewer system map and inventory all pipes 12 inches or larger. The City already has a map that shows all pipes 15 inches or larger. Public Works staff will identify the pipes and the Engineers will digitize a map.

The ordinance amendments will come to the City Council at a future meeting.

5. DISCUSSION REGARDING AMENDMENTS TO CHAPTER 4, LICENSING, AND CHAPTER 7, GENERAL REGULATIONS AND OFFENSES

Executive Analyst Helm presented on this item as outlined in the March 6, 2014 City Council Workshop packet. The following items were discussed:

Sections 410 and 750 - Tobacco

- The City Council agreed that Section 410 shall be repealed and combined with Section 750.
- **Section 750.03, Subd. 1** - The City Council agreed that City staff can continue to issue cigarette licenses instead of having them approve the licenses.
- **Section 750.03, Subd. 3** - The City Council agreed that all cigarette licenses shall expire on December 31 of each year.
- **Section 750.13, Penalties** - The City Council directed staff to combine the penalties from Sections 410 and 750 for licensees and to keep the penalties from Section 750 for employees, other individuals, and minors.

Sections 400.05 and 455.03, Subd.5 - Background Checks for Solicitors, Peddlers, and Transient Merchants

- The City Council agreed that the Police Department should automatically conduct background checks for solicitors, peddlers, and transient merchants.

6. CLOSE THE MEETING TO THE PUBLIC TO DISCUSS DEB HILL'S PERFORMANCE EVALUATION

The City Council closed the meeting to the public to discuss Deb Hill's performance evaluation at 8:05 p.m. The City Council opened the meeting to the public at 8:37 p.m.

7. ADJOURNMENT

Signed: _____
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Helm
Executive Analyst