

The Council of the City of Wellington, Kansas, met in a Work Session on January 31, 2017 at 6:30 p.m., in the City Council Room, City Administration Center, with Mayor Shelley Hansel presiding.

The Pledge of Allegiance was led by Mayor Hansel.

Council members Bill Butts, Kelly Hawley, Jim Valentine, Kip Etter and Jan Korte were present at roll call. Council member Vince Wetta was absent at roll call.

Members of the Staff present were City Attorney Shawn DeJarnett, City Manager Shane Shields, City Clerk/Finance Director Carol Mericle, Building Official Richard Jack, Jamie Cornejo Code Compliance Officer and Public Works Director Jeremy Jones.

REPORTS OF CITY OFFICIALS

2015 I-Codes. City Manager Shane Shields opened the discussion with some background information and history regarding the building codes. He stated the recommendations include adopting the 2015 I-codes which would be an update, as now the city follows the 2009 I-codes. Also included are updates and revisions to existing ordinances relating to Chapter 8 and Chapter 16 of the City Municipal Code. Manager Shields told the information for this change was included in the agenda for this meeting, and also a packet of information was distributed to the governing body several weeks ago and the proposed changes to the 2009 building codes, is the same packet of information provided to the Combined Trade Board. He continued the Combined Trade Board is recommending the adoption of the proposed changes as presented. City Manager Shane Shields stated that work on the updates has been a joint effort of the Combined Trade Board from the cities of Ark City, Winfield and Wellington. Joint meetings were held among the members of the different trades for each board with the board members having the final decision of what was included or deleted. The updates and revisions to Ordinances relating to Chapter 8 and Chapter 16 are proposed after review by Building Official Jack. He told a number of the changes relate to changing the name of the department in reference to a City Engineer, as the city no longer has an Engineer on staff, so references to a City Engineer are proposed to be updated to Building Official. The name of the department is proposed to be Building, Zoning and Code Compliance. He also stated there are some things being proposed that have created controversy among members of the public, and we believe there is some misunderstanding of what is being considered by some to be changes. Manager Shields said there appears to be the incorrect belief among some that there is work that can be done currently that does not require a contractor's license. Also there are comments with some types of work they will not be able to do. In some instances that is incorrect. Manager Shields sent a letter to the South Central Kansas Landlord's Association (SCKLA), dated January 13, 2017, and asked the association to provide a list of the examples of work that is in question. He indicated we would review and confirm if a permit would be required under the new proposed code wording with our intent being to insure everyone involved has the same correct understanding in order to resolve any issues. At this point a list has not been provided by the SCKLA. Manager Shields said with the recommendation of the Combined Trade Board to adopt the proposed update as presented that is what will be brought to the governing body in a regular meeting. He added the governing body can choose to adopt as recommended, or could direct that the matter be returned to the Combined Trade Board for further review, or the governing body can adopt what you as a body decide upon.

Director Jeremy Jones shared some additional information about the reorganization of the Engineering/ Building department into the Public Works Department in 2016. He attended the next two Combined Trade Board meetings to become familiar with the changes. Director Jones stated that his understanding of the proposed language and the work that an owner of rental property would be able to do is consistent with interpretation and practices when he worked in the department between 1999-2008. Most non-structural work commonly done by a building contractor would be allowed to be done by the

owner regardless if the work required a permit or not. He said nearly all work falling under the trades' mechanical, electrical, and plumbing if a permit is required would be required to be done by a licensed contractor. Director Jones gave a long list of maintenance repairs that can be done by a landlord/owner that don't require a permit and also that require a permit that the owner is still able to do. He commented after staff reviewed all permits in 2014, 2015, and 2016 along with 180 plus rentals selected back to 1999 this appears to be consistent with what has been done for nearly 20 years. He stated that it is not the intent of the Combined Trade Board the staff or anyone else within this organization to tie the hands of property owners that have invested a significant amount of money into the homes in this community. Director Jones said the staff wishes to clarify the wording of several codes to insure consistency and understanding.

Building Official Jack shared discussion about the 2009 I-codes that we are currently using now saying we have adopted the 2014 National Electric Codes and it is in place. He is proposing is that we update from the 2009 to the 2015 I-codes for building, residential and international existing building codes, which allows flexibility in commercial buildings that are 100 years old, to rehab them in a way that they don't have to meet the current 2009 or 2015 codes. Building Official Jack is also proposing that we adopt the residential debt guide that he put together. The publication has been endorsed by the cities of Winfield and Ark City and the Combined Trade Boards. He also asked Council to adopt the basement standards of the City of Wichita, which simply is a way for him to be able to explain to individuals what needs to be done per footing on a type of structure that is being built. Building Official Jack recommends amending the Ordinances as City Manager Shane Shields said. He also recommended changing the name of the department to Building, Zoning, and Code Compliance, and to update some of the wording in the Ordinances to clarify, and to correct misspelling of words etc.

Council member Jim Valentine asked Mr. Jack if he checked with City of Winfield and Ark City to find found out what percentage of their housing is rental vs. Wellington rentals. Mr. Jack said he will contact those cities for that information. City Manager Shields stated that the last census in 2010 the owner occupied housing was 65.3% of the housing units in the city with rental occupied housing units were 34.7% of that total. Winfield and Ark City has already had one of the most controversial issues that has been the topic here already in place regarding the owner occupancy for many years.

Mayor Hansel asked why this is a joint effort between Winfield and Ark City to make these code changes. Building Official Jack explained meeting with building officials in Ark City and Winfield is that they were in the process of updating their codes to the 2015 codes from much older codes. The cities were in mutual agreement that they needed to proceed with the change. He said a group was formed, they met two times a week for almost 6 months, and he invested 100 plus hours of his own time to meet with them and look at this issue. This is a very common practice with most surrounding cities to do this as an atypical cycle.

Council member Etter asked who directed Mr. Jack to start this process and at what point in the process was legal counsel involved with what would eventually become laws. Building Official Jack stated that no one directed him, but based on his experience, a 6 year cycle is the time to update codes. Previous legal counsel viewed the information in the book, suggested changes, and Building Official Jack gave that copy to the Governing Body. He stated that everyone has the same copy after the recommended changes were made, including the Combined Trade Board. This was the copy that was voted on by the Board. Mayor Hansel asked if Winfield and Ark City had passed these updates. He responded Ark City has made the recommended changes and they are in place and the City of Winfield after having a management change has been placed on hold. It will be presented at the next City Council meeting in Winfield. Council member Butts asked if City Attorney DeJarnett has had time to review the proposed

changes. City Attorney DeJarnett stated that there weren't big differences, Ark City handled them through the adoptive process and he stated that it was appropriate to handle it that way.

Attorney Jim Ruane, representing the Landlord Association, who has experience in rewriting the building codes in the City of Wichita, shared discussion about tonight's topic. He shared that the SCKLA is not wanting these changes to be made as recommended. He further stated the association feels they are being deprived of their sweat equity. Mr. Ruane also said that he speaks on behalf of at least 295 parcels that are affected by the improvements being made on them. He emphasized that if you are affecting the probability of higher costs, lower profits will ultimately bring about a negative impact to the tax basis here in Wellington. Mr. Ruane continued that he speaks also for the 825 tenants that are all citizens of Wellington. He stated that the impact of these changes would mean most likely rent would go up, and security deposits would increase. He said one of the great concerns is that up until now the only public comment that was requested by Wellington was the Combined Trade Boards of Ark City, Winfield and Wellington. He continued the Wellington Trade Board voted in favor 7-2 in favor of the change. At some point in the process there were two landlords added to the group that voted no. The group of seven who were tradesman voted yes. The outcome of the process was no surprise since these tradesman are answerable to their peers. He stated that the tradesman should know the different city codes in whatever city they are working in. Mr. Ruane presented several questions to the Council and staff. He also asked if there is any statistical local proof to support the assumption that health and safety dangers are caused when any owner installs their own water heater for instance, as an example.

Council member Valentine asked about the rental cost of the average rental property in Wellington. He was answered by the audience with \$500-\$600. He wanted to know the financial impact of this issue. Mr. Ruane will try to find facts regarding this issue. Mayor Hansel asked about the comparison with Winfield and Ark City. Director Jeremy Jones replied that for several years we have heard multiple complaints from contractors that our city stood alone and had no unity regarding these codes adding it is very difficult for contractors to keep up with. Mayor Hansel also asked what the urgency is with the process. Building Official Jack replied this has been ongoing for 8 months now, there is no urgency with the issue. He stated that he and Jamie Cornejo are simply facilitators of the meetings that were held, they were not in charge, and they merely were there to answer questions. There was much discussion regarding Building Official Jack's role in this process. He responded that he asked many questions to the current staff, previous staff and landlords what the common practice was here in Wellington. The most common practice was that an owner occupant was allowed to work on their house. Mayor Hansel asked about a water heater installation. Building Official Jack stated that it required a licensed plumber at this time. Audience Member Tim Fairbanks asked if him if he would sell him a permit to put in a water heater. Building Official Jack stated that no, he would not sell him one because it requires a plumber, adding it has been interpreted and was in writing when Building Official Jack started his job. Council member Kelly Hawley asked what change took place and when did council address changes. He said it already existed when he started the job with Wellington and it was interpreted that trades people need to do the trades work. There was much discussion regarding this issue and the work individuals do on their own. Audience member Tim Fairbanks stated that he is willing to go the extra mile to take the test and be up to code.

Council member Valentine stated that Building Official Jack wants to do the right thing here and asked for more time regarding this issue. Council member Etter commented that in addition to what Attorney Ruane said, we are basically asking our tradesman to write their own paycheck. Council member Etter also shared his experience with opening the Dore and does not see the need for anymore

government regulations. He also said he did not care what Ark City and Winfield do, just what Wellington does.

Jack Reimer, member of the Combined Board Trade, shared that codes have been derived from safety issues. He told the very first hot water codes came about in 1947, because a hot water heater blew up in Texas and killed all the kids in the school in that city. All the codes we have worked on are safety issues. He doesn't see that we are changing what is allowed or not allowed other than the wording to explain. Mr. Reimer continued the landlords are a for-profit business and are held to certain standards, safety being one of them. The codes address that, such as decking codes keep people safe. Council member Kelly Hawley questioned Mr. Ruane if the SCKLA at any time asked you to help fight the inspection process or to help them get away without having to pull permits to work. He replied no. She stated that all throughout the Code book wherever it states property owner it has been changed to owner occupied. That is not changing the wording that is a huge difference and huge change, it changes the entire meaning of things. She added she is all for safety and if you do sloppy work you don't have any tenants. Council member Korte said she is concerned about more and more regulations as well and the penalties. She doesn't want to create an atmosphere of the city against the people trying to do the work. Section 106.3 is the leverage for getting citizens to abide by the codes. There was more discussion about the code changes.

Mayor Hansel asked if we could find some common ground here. She asked what the reasoning was behind the wording change. City Manager Shane Shields stated that is was to clarify the wording of how it has been interpreted for the last 20 plus years, not how it has been written in code. The wording was to match the practice what permits were issued to who for the last 20 years. There was more discussion from the audience members.

Council member Etter asked City Manager Shields and City Attorney Shawn DeJarnett about procedures of the Combined Trade Board. City Attorney DeJarnett stated that he was not in attendance at the meeting. City Manager Shane Shields said a motion was made and seconded and if discussion was needed it was had at the meeting.

Cliff Bales, Sumner County Commissioner addressed the Council as a landlord. He said he was the regulator for Sumner County Planning and Zoning and Environmental Codes for 10 years. The County had no building codes in the unincorporated county. After the County adopted codes, they have had problems. He gave several examples of codes that do not work. Audience member Brian May shared his concerns about managing properties for an owner who lives out of state. Building Official Jack stated that there is some confusion regarding the issues at hand. He added that if it doesn't need a permit he doesn't care, you can fix it and if it requires a permit, all they ask is that you follow the ordinances. He stated if an owner has a property manager take care of their rentals they will have to be the one to obtain the permit not the property manager because they are not the owner of the house. Council member Kelly Hawley asked about the proposed changes and wanted clarification on these changes. Building Official Jack stated the changes were not any stricter than before. He explained those changes as requested.

Cliff Bales, Sumner County Commissioner questioned that since Cowley County College is being placed east of Walmart, the city boundaries stop at the east side of the KOA. He continued that some potential is across the street north of McDonalds, and ask about the City's intent for those businesses. Mr. Bales said there was no NRP for that area. Manager Shields told the eastern corridor was excluded by vote of this governing body at the time. Commissioner Bales stated that the city would not be getting building permits for that part of the corridor. Mayor Hansel reminded that is not the issue tonight.

City Manager Shields stated that since the Combined Trade Board made the recommendation to proceed with the code changes that is what will come before the governing body at a later time. If there is

some consensus to give direction as to what some alternatives are we can do that research and provide that information. If the consensus direction is to consider changing the existing interpretation that involves quite a number of potential impacts, you would be given some additional information. Council member Jan Korte stated that she would not vote for this as presented. City Manager Shane Shields asked if she would support the change the 2015 I-code but not the chapter and the ordinance changes. Council member Kelly Hawley stated that it is the job of the council to make policies but those policies have to make sense and have a purpose. She said she is not in favor of these proposed changes and would not vote yes. Council member Hawley said these recommendations confuse the issues at hand, however she is in favor of coming together with contractors as well as staff to make any changes. Council member Valentine stated he felt there needed to be some more research into the issue and have the input of the citizens and contractors before we made a decision. Council member Bill Butts commented that he was thrilled to see so much interest in a topic and shared he needed more information before he made a decision on the matter of these code changes. Audience member Marvin Rains who was a former member of the CTB for nearly 20 years shared he went through all of the meetings to get the 2014 electric codes adopted. He stated Building Official Jack has put a lot of effort into reducing the number of codes with these new proposed changes. Mayor Hansel thanked the Combined Trade Board for their time and effort in putting forth this decision and vote. She said it is obviously the consensus is that we need more information regarding the proposed changes. Mayor Hansel thanked the staff for their combined efforts regarding this issue and all of the hard work that has been put into preparing the facts. She asked Kenny Moore and Tim Fairbanks to come up with a list of differences to consider regarding changes to the city ordinance and code changes.

The meeting was adjourned.

Approved and filed this 7th day of February, 2017.

Mayor

City Clerk