

**City of Lawrence, KS
Community Development Advisory Committee
December 10, 2009 Minutes (City Commission Room)**

MEMBERS PRESENT: Chris Marshall, Quinn Miller, Julie Mitchell, Vern Norwood, Brenda Nunez, Katherine Pryor, Patti Welty

MEMBERS ABSENT: Susan Adams, Marci Francisco, Aimee Polson, Roberta Suenram

STAFF PRESENT: Danelle Dresslar, Brian Jimenez, Dan Johnson

PUBLIC PRESENT: None.

Chair Welty called the meeting to order at 5:40 p.m.

1. Introductions

Members and staff introduced themselves.

2. Approval of the November 12, 2009 minutes.

Mitchell moved **to approve the CDAC meeting minutes from November 12, 2009**. The motion was seconded by Pryor and **passed 7-0**.

3. Update on CDBG/HOME Grant Applications.

Dresslar handed out the Table of Contents for the Applications that the CDD received for the grant year of 2010. Dresslar explained that the application PDF will be placed on the PDS website within the next two weeks and the CDAC will have time to review the applications before their January 12 meeting.

Dresslar also handed out a spreadsheet that shows the neighborhood association performance reports and the ones that have been received and the ones that have not yet been submitted for both the grant year of 2008 and the first quarter of the 2009 grant year.

4. Environmental Code Violation Appeal – Patricia Sinclair – 331 Johnson.

Brian Jimenez, Code Enforcement Manager, presented the agenda item. He distributed an email from Ms. Sinclair as she was not attending the appeal this evening. The email can be found [here](#).

Jimenez explained to the members of the CDAC that Sinclair informed staff at 2:30 pm this afternoon that she would not be attending the meeting this evening, and her reasons are outlined in the email that was distributed to the committee. Sinclair stated to Jimenez in an email last Thursday that she would be providing information on Friday to be distributed to the CDAC; however she did not send nor deliver this information to staff. It is Sinclair's position that when the department did not receive the information she had indicated she would be providing it was staff's responsibility to alert her and let her know it had not been received. Staff does not feel it is their responsibility to ensure that she provides documentation that she has indicated she would provide. Jimenez said that this afternoon upon receiving the email from Sinclair that she would not be attending, he consulted with Scott McCullough, Director of Planning and Development Services, and it was determined that based on prior history staff could go forward with the hearing. Jimenez told the CDAC that this hearing was their opportunity to decide if they would like to hear this appeal case this evening or defer it until the date she has requested, which is the January meeting.

Jimenez provided the CDAC with a summary of the history of this particular code violation, and explained that the appellant has had a rocky history with neighbors in her neighborhood. Jimenez stressed to the CDAC that staff has indicated on numerous occasions that they would be willing to work with Sinclair and give her the necessary time and assistance needed to clear the porch, but she did not want to work with staff and chose to appeal the code violation.

Jimenez told the CDAC that they are being asked to determine if staff interpreted the code correctly with regard to the Sinclair property. Sinclair was cited based on a complaint received on June 30, 2009. Staff inspected the property and observed the front porch with various things stacked on it. The front door could not be utilized and nobody appeared to be home after attempting to knock on the side of the house. Jimenez continued that Sinclair telephoned staff that afternoon and expressed her displeasure with the fact that staff had been to her house. Staff kept in contact with Sinclair over the next few weeks and during this time she failed to clear the porch to satisfy the complaint. On July 15, 2009, Dan Johnson, Environmental Inspector, mailed her a courtesy letter asking her to clean off her porch. There was a deadline provided of August 6, 2009 for compliance, and when this was not met she was sent an official Notice of Violation. When she received the Notice, she emailed Jimenez to request an appeal hearing.

Pryor asked for clarification that Sinclair did not attend because the Committee did not get her materials in advance.

Jimenez said that this appeal hearing has been rescheduled three times. The initial date, which was September 24, was rescheduled due to the fact that staff

did not give Sinclair the required five day advance notice of the hearing as the ordinance states. The hearing was rescheduled several times after that, as Sinclair ultimately asked for an extension for her hearing prior to both the meetings on October 8 and October 22 due to various reasons. The hearing was not able to occur at the November 12 meeting as Code Enforcement staff was not able to attend. The hearing was ultimately rescheduled for this meeting when the second October meeting date was cancelled. Sinclair is now requesting the hearing be moved to January.

Jimenez said he spent 40 minutes on the phone with Sinclair prior to arriving at the meeting this evening. Sinclair was upset and called Jimenez names on the phone. Jimenez said this is a reoccurring pattern with her and asked direction from the CDAC how long they wished to continue this appeal.

Norwood asked Jimenez to read the email from Sinclair to the members of the CDAC out loud.

Jimenez proceeded to read the email in its entirety from Sinclair to the CDAC.

Norwood asked for clarification on the exact code violation.

Dan Johnson answered that it is due to the items stacked on her front porch. The City Code does not allow for storage of household items on porches. Staff just asked her to move her storage out of the public view. Johnson said that staff records show that Sinclair has been taken to court previously for this same violation and was found guilty at that time.

Jimenez said that in her email Sinclair references photos that she submitted to staff that were not forwarded to the Committee. The photos that she has submitted to staff were pictures of neighboring properties, not of her own house. This violation is only concerning her porch and the contents on her front porch, although her focus in her defense has consistently been her neighbors.

Norwood asked what the code number was that was in violation.

Johnson said it was 9-606.1 (A) and (C).

Miller asked if there was a fire code cited on this property as well.

Jimenez said that there was not a specific fire code violation reported, but there have been discussions with staff and the Fire Department to look at implementing fire code violations as well in situation such as this.

Miller asked how Sinclair enters her house if the front door is inaccessible.

Johnson said that there is a side entrance and a back door. There is no visible method of entry through the front door at this time.

Marshall asked exactly what is piled on the porch.

Johnson said he was not sure. The items have always been covered by a tarp, and Sinclair has indicated to staff that it consists of indoor items and property. Sinclair states that everything on the porch is related to reorganization and moving. Johnson added that he personally volunteered to come to her house on a Saturday and help her move everything off the porch. She declined his offer.

Pryor asked what was included in the official Notice of Violation.

Johnson said that it was an official letter saying that the resident was in violation, and if it was not taken care of by a designated date then staff can take the resident to court. There is time for the resident to comply with the findings and clear the problem. Staff is willing to work on extensions with residents. This hearing is a last resort and is requested by the resident and not staff.

Mitchell asked staff what will happen if the CDAC finds that staff acted appropriately under the Code.

Johnson said that she will be taken to court attempt to obtain a decision to enforce removal of her items off the front porch.

Norwood said that the determination of the CDAC tonight will be to decide if staff acted appropriately in interpreting the Code, or if staff misinterpreted it. Norwood said that judging from the photos and code and background information on the case the staff acted appropriately in their determination of the code and that Sinclair has been given multiple opportunities to comply and she has not.

Norwood moved **that Code Enforcement Staff has appropriately determined that 331 Johnson is in violation of City Code 9-606.1 (A) and (C)**. The motion was seconded by Pryor.

The motion passed 7-0.

Jimenez told the CDAC that staff will try to continue to work with Sinclair to resolve the situation as they have through the entire process. He said that she does have the right to go before the City Commission. If the case gets to court, the judge will look at the evidence from both sides and will make a determination, which could be the maximum fine as allowed by the Code or there could be an extension. At this point, there are several possibilities what the outcome of the issue might be.

Johnson added that the judge can even just order a clean up without a fine.

5. Miscellaneous/Calendar.

Dresslar reminded the Committee that the next meeting will be January 14, 2010 and that within the next few weeks there will be a notification sent out to them to alert them that the PDF of the applications is available online so they can begin their review process.

6. Adjourn.

There being no further business, Mitchell moved **to adjourn at 6:15 pm.** The motion was seconded by Miller.

The motion passed 7-0.

Attendance Record

Members	Jan 8	Jan 22	Feb 10 - Study Session	Feb 12	Feb 26	Mar 12	Mar 26	Apr 9	Apr 23	May 19	Jun 11	Sept 10	Sept 24	Nov 12	Dec 10						
Susan Adams														***+	E						
Marci Francisco	+	+	+	E	+	+	+	+	+		+	+	+								
Curtis Harris	+	+	+	+	+	+	+	+					**								
Quinn Miller	+		+	+	+	E	+	+		+		E		+	+						
Julie Mitchell	+	+	+	+	+	+	+	+	+	+		+	+	+	+						
Vern Norwood	+	+	+	+	+	+	+	+	+	+	+	+	+	+	+						
Brenda Nunez	+	+	+		+		+	+	+		+	+	+		+						
Aimee Polson	+	+		+	+	+	+	+	+	+	E	+	+	+	E						
Patti Welty	+	+	+	+	+	+	+		+	+	+	+	+	E	+						
Roberta Suenram					* E	E	+	+		+	E	+	+	E							
Chris Marshall											*+	+	+	E	+						
Katherine Pryor											*+	+	E	+	+						

* designates first meeting after appointment.

**Last meeting prior to term expiration.

***First meeting after appointment.

2009 Meetings Cancelled May 14, May 28, June 25, July 9, July 23, August 13, August 27, October 8, October 22, November 26, December 24

From: Pesinclair@aol.com [mailto:Pesinclair@aol.com]
Sent: Thursday, December 10, 2009 4:50 PM
To: Brian Jimenez; Danelle Dresslar
Subject: urgent --memo for tonight's meeting

To: Members of the Community Development Advisory Committee
From: Patricia Sinclair
Re: Appeal for 331 Johnson Ave.
Date: December 10, 2009

I regret that I will not be attending tonight's meeting of the committee and have asked staff to reschedule my appeal for alleged environmental code violation at 331 Johnson Ave. in January and given them a memo outlining my position. The reason for this is that staff did not post on their website and, I believe, did not distribute to committee members in advance, materials that I had sent to them in my defense. I emailed items twice in October to Brian Jimenez and others last week, including numerous photographs, other supporting materials, and a statement. He was aware that I was sending things to him last week.

Please do not let them hold the hearing without me. I am entitled to have you see the items submitted in advance, twice in Oct., and more last week. I also have more photos to show that I didn't want on the website. If you did not receive my materials in advance of today, it is not fair to proceed.

I also was not given a copy of the staff memo which is not available from the website. If this is the staff memo that was previously posted, it is incomplete, inaccurate, and, I believe, libelous. I have no criminal record of convictions, including for environmental code violations.

It was particularly important to me that you have materials to look at in advance given that my time at the meeting will be very limited. I also wanted them to be in the correct format for sending to you and posting, but was not given requested guidance on this by staff, so I proceeded as best I could.

I know that my appeal has been scheduled a number of times, and I am sorry for the inconvenience to you, but only one of those times was as a result of my circumstances. In October, I became quite sick for about three weeks with a flu or other virus with bacterial complications, so a meeting was cancelled (the other person scheduled must also have dropped out). The first time, in September, I was called by staff the day before the meeting as they had forgotten to notify me. Code requires at least five days notice and I would not agree to go the following day despite four phone calls with staff trying to get me to agree to it. I requested information about how the appeals went and was told by Dan Johnson that I could not submit materials either in advance to the committee members or at the time of the hearing. I could not accept that and finally contacted a City Commissioner for help and was told that I could submit materials, but by then it was too late to get them distributed for that meeting and I was offered a new date. Then I was sick. And now my materials have not been distributed or posted on the

website. I have been told by staff that I can bring 15 copies of anything to a meeting, but what good does it do if members cannot read them before the meeting?

I am making some brief statements below, but I do not do so in lieu of an appeal hearing.

I am not guilty of the alleged violation as per the anonymous complaint of June 30 and subsequent notices from the city. I rent two trash carts from the city for yard waste, trash, and garbage and use them appropriately. My porch and walk was swept and clean. My multiple flower beds out front and the lawn were kept up. This is my home of 16 years and I am horrified at being treated as though I were running a toxic waste dump. My front porch is gated because I do not want strangers up there after two nearby murders.

Dan Johnson took a few photos in late Sept., but these do not show the condition of my porch at the time of the notice or of the first contact, June 30. I finally had to proceed with my work in the basement and tossed some items onto the front porch when the weather turned bad (see below).

I have also not been able to get the city to act on my complaints of violations for over five months, particularly for violations of commercial use in single family residential zoning, unregistered rental properties, and what I believed to be a nuisance house. 322 Johnson Ave. has had multiple loud parties with trash violations. The owner was found guilty in Nov. for disturbing the peace on June 12. 330 Johnson Ave. is owned by Tim Houser and his mother and the house has been rented for two years to a family without being registered with the city. Tim remodeled the double garage and runs an incorporated construction company out of their, with vehicles, equipment, and debris in the garage, the rear and side yards, the driveway, and his girlfriend's driveway at 332 Johnson Ave. He now lives with her there. Vehicles are coming and going repeatedly, and he backs his trailers in, and has turned the gravel drives between 322 and 330 into a parking lot. Dan Johnson actually told me that he would not take any complaints from me. I have written to Brian and to Scott about many of these situations, including probable building code violations. I have also written to David Corliss for months about the construction company at 330 Johnson Ave.

There are also multiple ROW violations which staff says they don't enforce.

Staff did not follow code in dealing with me and that is clear. But things were much more complex than that and I do not feel that I was treated fairly or consistently.

Dan Johnson failed to give you the part of the code which states that he must look at the immediately surrounding properties (9-605), which I have plenty of pictures of over the course of months and which feature terrible conditions. You should have received most of those photos. I also have a definition from the city that shows those to be within the block. You should have that as well. He did not cite any particular item which was illegal on my porch according to those listed in the code in my notice – because there was none! He did not photograph my property or those on my block at the time of the

complaint and when I requested to see my file on Aug. 17, I was merely given a partial page printout.

It was agreed that we would work things out without the city sending a letter or making a notice. Then they did it anyhow. I received no courtesy letter. Dan failed to leave a hang tag or door hanger which is required by city code and which would have alerted me earlier to their change of mind. There are other problems with the notice and it was mailed a day late, and he required me to only have furniture on my front porch which is not according to code or what my neighbors are allowed.

I actually was concerned about what I needed to use the porch for in the coming summer and, to that end, tried to get agreement from the city for that use. I had a meeting with staff on August 17 and we had an agreement that they would withdraw all paperwork regarding the complaint and that I could use the porch as a staging area while house work was done. But, since the deadline for requesting a hearing was approaching, and I didn't have the agreement from the meeting in writing, I said that I needed to request a hearing. I intended to withdraw my request for a hearing once the meeting agreement was finalized, but staff now do not acknowledge the meeting (although I had a recorder running during it).

I need to reposition some supports in the basement to get a new washer in, thus needing to move all of the pallets and their stored boxed contents. Also, I have some water coming into the basement since my next door neighbor declines to fix her rain gutter. I also wanted to do some interior painting and exchange furniture for some in storage. Since my house is small, this would require using the porch for a staging area. This was what I was requesting permission for and why I was concerned that I not have a problem before I began this.

This entire process began when a neighbor, Tim Houser, who illegally runs a construction business across the street from me, mistakenly thought that I had called the police to complain about his illegally parked trailer. He cursed me in a tirade both while I was in my house and while I attempted to leave in my car. He stated he was going to call to make a complaint about my porch. Although I declined to press charges against him that day, the LPD eventually told me I needed to get an order of Protection from Stalking from Douglas County District Court, which I did due to his numerous harassing and frightening actions.

You should have shocking pictures of 322, 330, and 332 Johnson Ave., and I am intending to bring others from around the block to the meeting in January.

I have lost the entire summer and my chance to do the work on my interior of house and basement that I wanted to do before winter. I have been subjected to unbelievable harassment when I go to the front of my house and porch. I have had to call police and see a lawyer and go to court to get the order of protection from stalking. I have been frustrated to have staff refuse to address my complaints. And all of this because a neighbor called to complain about Tim's trailer – not me.

As I hope I have explained, my reaction to this situation was geared to what I needed to do in the future this past summer to use my porch as a staging area. So, I could hardly empty a porch that I was planning to fill. Most of my neighbors have done this kind of remodeling over the years and I merely asked for permission to do so, while trying to also deal with the immediate situation.

I have just seen an email that states that they will proceed with the hearing with or without me. This was sent too late for me to get to the meeting, and they refer to multiple cancellations. I have explained that these were not my fault except for the illness which could be documented with my doctor. Brian also states that I told him I was sending something last week which he never received. But he never told me that. Also, he does not address the multiple photos and items I sent in October. I have quickly added more to this memo than I originally intended, but it is not a fair defense.

Please know that I will go to the City Commission and take any other means necessary if I am denied my right to a fair hearing not owing to my fault. They state that they will proceed without me.

They could have called me, but did not. I am a senior citizen and cannot safely get to the meeting now in these weather conditions, as it is almost five p.m.

Thank you for your consideration.