

EAST BETHEL CITY COUNCIL WORK MEETING

OCTOBER 15, 2014

The East Bethel City Council met on October 15, 2014, at 6:30 p.m. for the City Council Work Meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Ron Koller Tim Harrington
 Heidi Moegerle Tom Ronning

ALSO PRESENT: Jack Davis, City Administrator
 Mark Vierling, City Attorney
 Mark DuCharme, Fire Chief

Prior to Call to Order, the Council held an informal discussion with the Boy Scouts relating to the work of the Council on the City's behalf and the Scout's work towards the Citizen Badge.

1.0 The October 15, 2014, City Council Work Meeting was called to order by Mayor DeRoche
Call to Order at 7:03 p.m.

2.0 **Moegerle, "I make a motion we adopt tonight's agenda. Harrington, "I'll second."**
Adopt DeRoche, "Any discussion? All in favor?" **All in favor.** DeRoche, "Opposed? Hearing
Agenda none, motion passes." **Motion carries unanimously.**

3.0 Davis presented the staff report, indicating the Council discussed a proposal for the
Proposed consideration of a Rental Ordinance at their October 1, 2014, meeting. As a result of this
Rental presentation, a Work Meeting was scheduled for tonight to continue the discussion.
Ordinance

Council has previously discussed the need for Rental Ordinance. As more rental properties have become available, instances have arisen that may require an ordinance that would cover issues of the concerns and protections of renters and lessees.

Blaine, Isanti, and St. Francis all have Rental Ordinances and those had been attached for your previous review.

Ham Lake, Oak Grove, and Cambridge do not have Rental Ordinances. Cambridge does have an ordinance that allows for rental inspections upon request of the tenant, neighborhood association, or owners. Cambridge considered passage of a traditional type rental ordinance but it was ultimately denied by the City Council and was replaced by a Request for Rental Inspection.

In addition to a Rental Ordinance, Council may wish to include in the discussion an Ordinance amendment that would enable the City to secure services to perform property maintenance activities on abandoned, cited, or unkempt vacant properties to prevent blight and eliminate situations that create public nuisances or unsanitary conditions.

The adoption of a Rental Ordinance would serve as protection to renters and could establish minimum dwelling standards related to health and safety. As with any new ordinance, additional staff time would be required for inspections and tracking of rental properties.

3.0 Davis, "At this time, staff is seeking direction from Council on how to proceed on this

matter, if a Rental Ordinance is to be pursued and if so, what format you would like to see something presented.”

DeRoche, “Well, I guess I see need for a Rental Ordinance; however, I have some concerns. I think this is going to be one of those that’s going to take a few meetings anyway. I would hate to see just this blanket ordinance where now we’re going to have to require permits, we’re going to require inspections, and it’s going to cover everything from basic rentals to maybe some family member moving back home down in the basement temporarily and paying rent. Is that going to be under it? If it’s not, then how do we legally say, ‘Well, yeah, but we’re going to make him follow the rules for rental but not you because it’s just a family member.’ I don’t...Mark, can we do that?”

Vierling, “Well, I think what you’re going to need to do is address what is defined as ‘rental’ and you can do that by way of whether or not there’s a monetary payment being exchanged between the owner of the property and the person occupying it. You might want to specifically exclude people by relation of family, if that’s what you wish to do. You do have the opportunity, of course, to be very specific in terms of how you’re going to define what is a rental unit for purposes of regulation. Aside from that, as Jack indicated, you really have, you know, for what purposes do you want to regulate it. Certainly for the purpose, there are communities that regulate rental units to keep them from maybe housing people who are repetitive violators of local laws and nuisances and they want to keep that type of element out of the community and keep the problem that some communities have had with repetitive police problems in given units. Because, they always seem to have those types of issues. That’s one thing you can certainly do. There are other communities that regulate rental units for purposes of quality of housing in terms of Building Code, health and safety, things of that nature. You can certainly do that as well. But under either of those scenarios, I think, you are correct in the sense of threshold issues. What do you want to call a rental unit? What do you want to call a rental arrangement? Because you can define that very specifically to exclude either family relationships or some other, perhaps, occupancies that are not based on a monetary payment or other circumstances that you feel shouldn’t be necessarily subject to your regulation.”

DeRoche, “Well, and I think I brought this up, there’s some places I know over at the Beach that were and are rental properties that...I don’t know, I think some of them are substandard. One particular situation that I know of, that she was approached on one where a house flooded. I know that there was another house that someone was living in, it was flooded two, three times. Severe mold, the floors were bad, and it was either quit complaining or move. So, I think when we put this Rental Ordinance, even like Cambridge, if the caller could say, ‘Hey, this is a substandard house I’m living in.’ Well, there’s going to be the fear that if I call and complain they’re going to ‘boot’ me out. So, how do you get around that?”

Davis, “There are Fair Housing Laws that address that and do afford protection to renters. Here again, it’s a matter of their being able to access those and take advantage of what is offered as the protection. Again, and if I’m correct, those involve civil rights issues.”

Vierling, “Beyond even that, even the State laws do allow a renter to pay their rent to the court if there’s a problem with the structure where the landlord won’t fix it. The problem goes to the fundamental nature whether or not the structure is safe and habitable. That’s been in the State Law for years. Those things are handled currently in your community. Because you don’t have a rental ordinance, they’re handled at the judicial level of the State

Proposed
Rental
Ordinance

court. Usually what happens is the renter becomes dissatisfied with the housing. They feel it's unsafe. The landlord won't make the repair. The tenant doesn't make the payment of rent. The landlord sues for what we call an 'unlawful detainer' to evict them from the property. The tenant appears and says, 'I've been withholding my rent because of this problem,' or something else. The court then instructs them to pay it into court and then they deal with the issue. So, what you can do and what some communities have done is take that issue really from that judicial level down to the City level by passing an ordinance on the quality of the rental housing. In fact, beyond that, there are communities that have Truth in Housing regulations that go beyond merely rental into all types of housing. If you want to do that as well. So, it's not that those folks don't have a 'voice' and don't have a forum to present their complaints. They do. But the issue for you is, do you want to bring that down to the City level so they can use your City ordinance as a basis to resolve those issues. And, do you want to be on the front end of having your Building Department working through those issues. From a licensure standpoint, before you would allow somebody to be a landlord and actually commercially let their place out for purposes of residential occupancy."

Moegerle, "I've got some thoughts on this. One, I like the definition that Blaine has of a rental dwelling. It indicates that, it means, 'The structure portion thereof which is designated use for residential occupancy by one or more persons who are not the owner or member of the owner's family.' I think that covers it pretty well. I'm particularly concerned about health and safety. This winter there were five kids that died in a house fire down in the Cities because there were no smoke alarms. I think, my concern is primarily safety. I saw, it was \$110 for an inspection, which I thought was kind of steep. But, on the same hand, you know, this is, it's important that we have rentals that are safe. I also thought that some of the inspections, well, conduct on licensed premises. To what extent does a landlord have the ability to control that? They can evict somebody who has been disorderly but how does that work?"

Vierling, "That has really been a major push. In the major metropolitan communities where, because of ordinances such as theses, the communities have forced the landlord to be more vigilant about his tenants. They have in their leases, basically, provisions with regard to conduct and behavior on the premises, numbers of police calls, things of that nature, doing any type of criminal activity on the premises. It forces the landlords to be more vigilant about who they let in and how they monitor and maintain their tenant base. One of the first communities who put this in was Brooklyn Park or Brooklyn Center, where you have a number of apartment buildings that are generating significant numbers of police calls. After the police are there repetitively, over time, the city certainly gets to appreciate how much manpower and how much their police officers are being dedicated to that. Rather than let the landlord sit by and not be more proactive, they have forced that aspect in their ordinances so the landlords become primarily responsible to the city to maintain a property so that you don't have criminal behavior on-going because it places the burden on the landlord to get rid of those tenants that are committing either criminal offenses on the premises or conducting various behaviors that are detrimental to the other tenants."

Moegerle, "Was that something that was designed particularly for apartment complexes? Because, certainly in East Bethel it's going to be somebody who owns an extra private home and that kind of stuff." Vierling, "It's not designed specifically for multiple family apartments. It applies to any rental."

Proposed
Rental
Ordinance

could be both I suppose.” Vierling, “They are not indigenous simply to the multiple-family units. Whenever you have an absentee landlord, you have the opportunity for all kinds of behaviors to be going onto the property that are problematical to the neighbors as well.”

Ronning, “I’m concerned about the safety issues myself. I’m not real interested in some of the, without mentioning the name, there’s three pages, three single pages of definitions like ‘building, dwelling, dwelling multiple family, dwelling unit, garbage.’ ‘Garbage’ is number 8, ‘refuse’ is 19, and ‘rubbish’ is 25. It’s a little bit of humor in there. So, nothing really cumbersome, you know something that protects the City, protects the leaser and the lessee, especially the person living in the house or whatever the unit might be.”

Vierling, “I appreciate that but in terms of drafting ordinances, the ‘Devil’s always in the detail’ and whether you have it drafted in such a fashion so it’s going to be enforceable and you’re not going to have any gaps in coverage so that somebody could sneak through an area that you hadn’t thought through. I would expect, when you look through the ordinances from various communities, there’s probably a fair amount in there that’s also dovetailed into their other community ordinance sections where they’re trying to mesh into their framework of ordinances.”

Moegerle, “How many rental units do we estimate that we have? Jack, do you know?”
Davis, “We don’t have any idea because they’re not required to be listed as such.”

Ronning, “Certainly a consideration that in the eight years I’ve been coming to these meetings, this is the first time I’ve heard of it. It’s not a ‘burning’ issue but we don’t want people dying in a fire trap or can’t move out of a mold-infested...”

DeRoche, “If you remodel a house now days, you have to put fire alarms in it.” Ronning, “If you do any upgrade. If you put windows in you have to have a smoke detector.”
Harrington, “Carbon monoxide detector.” Ronning, “Right, CO₂, carbon monoxide, CO.”

DeRoche, “So, how are some of these rental properties that are having to do windows, doors, electrical, and everything else being done? Nothing’s being upgraded.” Moegerle, “They’re grandfathered in, I don’t know.” Ronning, “If you have a contractor, you’re going to get a permit and the permit requires upgrading the necessary items.”

Davis, “If there’s a permit pulled, then those requirements would have to be met. Now, there may be some instances where certain improvements are made without pulling a permit. If we find out about those, we’ll certainly take care of the situation. But, if the permit’s pulled and the thresholds are triggered, those safety improvements will have to be incorporated per the Building Code.”

DeRoche, “Even if there was some kind of a registry in the City for rental properties. If someone comes in for a remodeling permit or building permit and it’s ‘flagged’ as a rental property, then it could be brought up. ‘Well, okay, do you have all these amenities here.’ Yeah, fire’s bad stuff and fire alarms...Mark, you want to step up here? We’re discussing a Rental Ordinance and safety and fire hazards and stuff. What’s your take on a requirement of fire alarms and stuff?”

DuCharme, “First of all, all units whether rental or not need to have smoke detectors. That’s our first line of defense. I kind of heard somebody mention the carbon monoxide detectors, which in new construction are needed now. Just general housekeeping is always

Proposed
Rental
Ordinance

important. You know, how you accomplish whether or not people are actually adhering to those rules, that's where the difficult part of this, I think, comes in. Certainly there's cities within the State that require a fire safety inspection or some type of inspection before. And, there's other cities that don't require it and rely on some of the housekeeping ordinances that we have. But, I think it's mandatory that somehow we need to have the smoke detectors. That's your first line and the carbon monoxide."

DeRoche, "Is there any 'blanket' Statute, State law that says, especially if it's a rental property, that you know of that says it must have smoke detectors, CO₂ detectors?" DuCharme, "Short of, you know, Building Codes and things like that...Mr. Mayor, I'd have to research that to give the accurate Statute and things like that. Especially on new construction, new construction that's already built in or any type of remodel. That's already built into the Building Code and the Fire Codes."

Ronning, "Assumptions are rarely safe, but assuming there aren't any real, if anybody is aware, they would have to mention what they are, somebody that makes a living renting homes. The ones I'm aware of, somebody hasn't sold their home yet so they rent it out until it sells. Then you're done. Or, they rent something out for a length of time for somebody else's convenience or things like that. It's kind of a complicated thing, how much you want to regulate. How much should be regulated."

DeRoche, "There again, enforcement." Ronning, "Yeah." DeRoche, "I think it would, you know, at least give people that are renters something now if they are basically told it's 'move.' Then someone else moves into that same situation and nothing ever changes. That's not to say that all people that rent out are slumlords, but there are some, 'I'd just as soon save a few dollars' and, kind of 'roll the dice.'"

Ronning, "There's other considerations. If it's wintertime and somebody hasn't paid their rent for a year and a half, you aren't going to tell them to 'hit the road.' Vierling, "Yes, you would." Ronning, "You can't evict them as such can you?" Vierling, "Oh, yes you can. You're thinking of the Cold Weather Rule where the utilities can't shut off utilities in the cold weather. A landlord can evict a tenant for nonpayment of rent at any time." Ronning, "One of my brothers-in-law is a landlord and he says he hasn't been able to evict them. But, that's, whatever."

DeRoche, "What do you think Ron?" Koller, "Well, I don't think it's a real problem right now but it will come up eventually. The safety part is the only part I'd be really concerned about. If you list it as a rental, it should have an inspection of some kind." DeRoche, "Right." Koller, "But, we don't want to go over board on rules."

DeRoche, "I think we have to come up with something and staff's looking for direction on where to go with it."

Ronning, "You mentioned a couple meetings. First of all, you're going to have to try to define some parameters, I would think. We can't just say, 'Well, I like this. Let's take this one.'" DeRoche, "No but what we could do is kind of go through some and submit them to Jack and say, 'Well, this is what I think should be in here.' You get five people putting in what they think and then have another meeting and say, 'Okay, let's take a look at what people think should be in there.'"

we can pull together something as a rough draft, at least for discussion purposes.”

Moegerle, “I guess a question I have is with regard to the last one, which was Cambridge, where they just gave the right for the inspection to occur. I think we’re looking for more than that. Is that a consensus of the Council at this point? That we want more than just having the right to call the City to come in and inspect the premises?”

DeRoche, “Yeah, I think we have to give renters an opportunity where they don’t have to be the one to call because it’s substandard. I think that’s just going to put people on the spot and it’s not going to be taken care of.”

Davis, “Generally, if it’s not a call or complaint, if it’s something that is being reported to us, we have to get permission from an owner to inspect. Or, if there’s actually a renter there, then they do have control of, a certain control of, the premises and we can come in there and look. Then we can come in there and make a report. If there are certain things like mold that don’t fall under the Building Code, which we don’t really have a lot of control over, then we’d have to report that to the County Health Department. They’d have more powers on that than we would. I do think some of the onus on this is going to be on the tenant as far as reporting things. I don’t see how we’re going to get around that. Hopefully there’s enough protections, State and Federally, if there’s ever a retaliation. I do think that they’re going to have to be part of the solution to the problem here.”

DeRoche, “I have no doubt they have to be part of the solution but I just, I know quite a few people that maybe aren’t so well off and they’re kind of, a couple kids and in a situation where...where are they going to go? And, granted, they may eventually, you know if it goes to court and everything works out great. But in the meantime they’re going, ‘Well, what the heck?’ Where if we had some kind of registry that if you’re going to rent out to other than family or, you know, friends, I don’t know how you’d separate that.”

Davis, “I would like to point out, on the Cambridge situation, it is part of their request for inspection. They did adopt a City Housing Code, which establishes minimum standards for facilities. It also establishes minimum standards and responsibilities for owners and tenants. That’s in their code. It’s probably about 20 pages long and it does give standards as to what would be enforceable and what constitutes things that need to be looked at.”

Moegerle, “That would be interesting to see, at least on my part. But, just what we have from them right now, I don’t think that really fills the need. I like what Blaine has. They seem to be pretty organized and don’t have as many definition sections, which I imagine they rely on other ones outside of this. But, it seems to be well organized. The cost of the fees is a little steep.”

Davis, “Really, all three of those ordinances, they are all three very similar. The one from St. Francis is probably much more detailed. When you get to examining Isanti’s and Blaine’s, they almost mirror each other. There are a few minor distinctions but for the most part, they’re similar.”

Ronning, “In as much as, I’m certainly not aware of any imminent danger to anybody. I could see this more issue driven than an umbrella or ordinances to cover everything from ‘mice to lampshades.’” DeRoche, “Well, it is issue driven.” Ronning, “Right. That’s my thought.” DeRoche, “Otherwise, it wouldn’t have come off.”

3.0
Proposed
Rental
Ordinance

Moegerle, "And, one thing I didn't read in here really, is any protection against flooding. I saw, obviously, the fire. But, flooding is something that's been an issue for our residents. Maybe I just skimmed by that." DeRoche, "Pipes freeze and burst, 'Well here, you fix it.'" Moegerle, "Or, where do you go until the pipes are fixed?"

DeRoche, "Right. You got any take on this Shelly? No? Well, I ask everybody. You're a resident. We're looking at putting together some type of Rental Ordinance. I ask everybody's opinion. Well, I say we each come up with what we think we would like to see in there. Jack, can you, on that one with Cambridge, get any more information on that one?"

Davis, "Yeah, I'll forward everybody the Housing Code section that they adopted as part of that. And, one other thing about those, the way those operate, is if there's a request for an inspection, the requestor pays \$40, which is an escrow amount. If the inspection reveals there are things that are out of compliance, then that money is refunded back to them. Then the owner is responsible for that fee plus they have to correct the deficiency."

Moegerle, "I have one other comment. Paragraph 4, 'In addition to a rental ordinance, you may wish to discuss amendment to secure services to perform property maintenance.' But, we have a Nuisance Ordinance. How is our Nuisance Ordinance not sufficient to provide what you're suggesting here?" Davis, "It doesn't provide much detail. It gives us very little latitude in relation to unkempt properties where people don't know it or let the weeds grow up or it's a foreclosure and they walk away from and the bank does it. We really don't have a mechanism to go in there and have the work performed and have it assessed, at least in our ordinance. It's something we might want to look at as far as broadening some of the scope of the things we can do to correct that."

Moegerle, "Well, should we expand the nuisance separately from the rental?" Davis, "Yes. But, while we're discussing rental and stuff like this, that's another thing we need to take a look at, probably. Start now so if we do something, it could be in effect by next spring when a lot of those issues come up."

Ronning, "Is this Cambridge, the one Cambridge has?" Davis, "Yes." Ronning, "Okay, it's in our packet."

DeRoche, "Well, you got enough direction there Jack?" Davis, "Yes, if you'll give me some of what your thoughts are then we'll put something together and come back and discuss it."

Koller, "I like this little checklist that Blaine uses. It covers all the safety and makes sure the house is livable. I don't want to go overboard on rules and regulations."

4.0
Adjourn

Moegerle, "I make a motion we adjourn." Harrington, "Second." DeRoche, "Any discussion? All in favor?" All in favor. DeRoche, "Opposed? Hearing none, we're adjourned." Motion carries unanimously.

Meeting adjourned at 7:35 p.m.

Submitted by:
Carla Wirth

TimeSaver Off Site Secretarial, Inc.