

COMMITTEE ON ENVIRONMENT AND PUBLIC SAFETY

JULY 22, 1996

7:30 P.M.

Committee Members Present:

James Hayes, Carolyn Kearns, Esther Patt, Michael Pollock,
Marya Ryan (Chairperson), John Taylor, and Joseph Whelan

Committee Members Absent:

None

Staff Members Present:

Steve Holz, April Getchius, Bruce Walden, Bruce Stoffel,
Bill Gray, Chief Adair, Jeff McDuffy, Karen Rasmussen, Diane
Schober, Craig Grant, Phyllis Clark, and Mayor Satterthwaite

Others Present:

Jim Green, Allen Booth, Robert W. Anderson, Judy Wyatt, Earl
O'Shea, Paul Debevec, Michael Wiest, Dennis Stalter, Tamara
Anderson, Nancy Clausen, Susan Robinson, Cathy Saum, Blaine
Fogel, Mary Cogleo, Elizabeth Cardman, and Members of the
Media

Meeting Location:

Urbana City Council Chambers

There being a quorum, Chairperson Ryan called the meeting to
order at 7:30 p.m.

Additions to the Agenda and Staff Report

Chairperson Ryan requested to make a change to number 2, to
make meetings plural, as there are two sets of minutes to approve.
There were no objections.

Minutes of Previous Meetings

Ms. Kearns moved to approve the minutes of the June 24, 1996
meeting. The motion was seconded by Ms. Patt. Chairperson Ryan
requested to make a change in the sixth full paragraph, on page six,
to change "They are proposing eight." to "They are proposing eight,

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two hour meters." There were no objections. The motion to approve the June 24, 1996 minutes, as amended, carried by a voice vote.

Mr. Taylor moved to approve the minutes of the May 28, 1996 meeting. The motion was seconded by Ms. Patt and carried by a voice vote.

Public Input

Jim Green, Attorney for First National Real Estate, was present to answer any questions regarding the 302 South Cedar building code issues.

Allen W. Booth, 302 W. High Street, addressed the Committee regarding the perceived grade problems with the New Yorker Apartment Building at 302 South Cedar and his opposition to the issuance of a temporary occupancy permit for that building.

Robert W. Anderson, 209 W. Green, addressed the Committee regarding his problems having property adjacent to the New Yorker Apartment Building.

Judy Wyatt, 1202 E. Harding Drive, addressed the Committee regarding the need for more and better handicapped parking at the Urbana Free Library.

Earl O'Shea, 606A S. Glover, addressed the Committee on the topic of better government and his problems with the property at 602 S. Glover.

Paul Debevec, 708 W. California, and Elizabeth Cardman, 708 W. California, did not address the Committee but requested that their positions in opposition to an occupancy permit for 302 Cedar Street be entered into the record.

Mr. Whelan addressed the issue of the handicapped parking at the library, stating that he had experienced problems with access when he was in a wheelchair and also when he takes his wife to the library.

Mayor Satterthwaite stated that he would be happy to have staff take a look at the handicapped parking situation at the library.

Mr. Pollock addressed the situation on South Glover Street stating that a number of loads of fill were dumped there over the past week. Mr. Pollock stated that, while it is not clear that it is illegal, there is no question that those lots are a mess.

Mr. Pollock requested that staff explore the situation and advise Council as to what is going on. Mr. Pollock asked that staff be as aggressive as possible, within the limits of enforceable

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ordinances, to get this mess cleaned up.

Mr. Whelan concurred with Mr. Pollock's statements.

Review of Traffic Commission Minutes

There were no comments.

An Ordinance Authorizing The Purchase Of Certain Real Estate (1307 West Beech Street)

Grants Management Manager Bruce Stoffel stated that this is a proposed CDBG acquisition for Habitat for Humanity.

Mr. Pollock questioned the reasons for Habitat for Humanity preferring the King Park/King School area for building and urged the City and Habitat to take a broader look at other locations in the City for this type of help.

Mr. Taylor moved to send **An Ordinance Authorizing the Purchase of Certain Real Estate (1307 West Beech Street)** to Council for approval. The motion was seconded by Ms. Kearns and carried by a voice vote.

An Ordinance Revising the Annual Budget Ordinance (CDBG and HOME Programs and A Resolution Approving a Second Modification to the Urbana HOME Consortium and City of Urbana Consolidated Plan Annual Action Plan Submittal for Program Year 1996-1997

Mr. Stoffel stated that these items can be discussed together.

Mr. Stoffel stated that Council adopted the 1996-1997 Annual Action Plan submittal to HUD at the May 13 meeting and it was submitted to HUD by the May 17, 1996 deadline. At the time it was submitted, the exact CDBG and HOME dollar amounts were not known due to the Congressional budget difficulties.

On June 28, word was received that the City's annual application had not been processed because the amount was not submitted. The City has been asked to resubmit the annual request for CDBG and HOME funds as soon as possible.

The proposed modification to the Plan was presented with packet information. What is proposed is to use excess dollars that have been identified in accordance with the program that Council has already passed, rather than to propose new programs at this point.

Community Development staff recommends approval of the

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modified Annual Action Plan and budget revision.

Due to the limited time allowed to revise the Annual Action Plan, the Plan will not be reviewed by the Community Development Commission until its July 17, 1996 meeting.

Mr. Hayes inquired about the reconstruction of Harvey and Gregory Streets as an option?

Mr. Stoffel stated that is a project that, as a street reconstruction, is eligible for Community Development Block Grant funding; not for HOME funding. HOME funding is strictly for affordable housing. If it was a street where houses were going to be built, then it would be HOME eligible.

The reconstruction of Harvey and Gregory, south of King Park, is part of the King Park Neighborhood Plan and there are two elements that have not yet been done. One option would be to set aside money for those reconstruction projects. The budget for each segment, Harvey Street and Gregory Street, is \$140,000 each. That includes street work, sidewalks, lighting, etc.

If the desire was to put that unprogrammed, \$72,000 toward that construction, it would have to be set aside and have money added to it. The money could not be set aside until 2002. The project would have to be accelerated.

Mr. Whelan questioned if the money could be used to fund the Community Policing Officer? Mr. Stoffel stated that it could.

In response to Mr. Hayes' question regarding whether the Community Center could be a project for these funds, Mr. Stoffel stated that it could be.

Mr. Pollock questioned if there was a potential for any additional property acquisition in the area of the Community Center?

Mr. Stoffel stated that the Park District has taken the initiative to investigate the acquisition of property east of the lot currently owned by the School District. If funds were allowed for this property acquisition and not spent, it could be reprogrammed and used in a different capacity.

Responding to Mr. Whelan's question of whether the Community Center could be built in a more central location in the City and use CDBG funds, Mr. Stoffel stated that it has to benefit low to moderate income persons. This is one of the basic requirements for the use of CDBG funds. The other basic requirement for use of those funds is that the project must eliminate blighting conditions. A different

site could be used if it meets those requirements.

HUD defines a low-moderate census tract as one in which at least 51 percent of the households have income at or below 80 percent of the median. In the Consolidated Plan, for a family of 4, that is \$34,500.

Mr. Pollock inquired if the Council decided to designate the \$75,000 for property acquisition or other construction contingencies for the Community Center, as opposed to what staff presented, does staff have a recommendation for that use?

Mr. Stoffel stated that staff recommends what they presented to Council, but if that is what Council desires, it is eligible.

Mayor Satterthwaite inquired about the line items that are receiving additional amounts due to increases in costs? Mr. Stoffel stated that those items are: neighborhood clean-up, census tract street lighting, property maintenance, and administrative type items such as photo supplies, printing, and citizen participation.

Mayor Satterthwaite stated that staff has put a lot of thought into this proposal and allotted the money where the needs are and recommended that Council approve the recommendation as it came from staff.

Mr. Taylor moved to send An Ordinance Revising the Annual Budget Ordinance (CDBG and HOME Programs) to Council for approval. The motion was seconded by Ms. Patt.

Mr. Pollock moved an amendment to the motion that Committee change those figures to reflect the neighborhood clean-up, property maintenance, photographic supplies, printing and citizen participation, all of which are programs which need extra funds in order to not be short, which is \$16,319, add to that \$20,000 for housing rehabilitation, which would be a reduction of \$10,000 from the recommendation, and put the balance of that into property acquisition in the King Park area for the purpose of the Community Center. That is a total of \$37,962. The motion was seconded by Ms. Patt.

Mr. Pollock reviewed the figures in the motion to be:

\$2,069	Census tract street lighting
\$6,500	Neighborhood cleanup
\$5,000	Property maintenance
\$ 250	Photographic supplies
\$ 500	Printing
\$2,000	Citizen participation

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Reduce housing rehabilitation speed up from \$30,000 to \$20,000 and the balance would be \$37,962 for property acquisition.

Mayor Satterthwaite inquired of staff if the money for the Community Center would be better in the Property Acquisition line item or in the line item for the Center itself?

Mr. Stoffel stated if it was put in the Neighborhood Center line item it could be used toward construction or basically any expenditure which would reduce the amount that would have to be raised. That is a decision that Council would have to make.

Mayor Satterthwaite stated that taking money from Contingency would leave only \$6,000 in that line item. Is that a problem?

Mr. Stoffel recommended that the contingency line item not go below \$10,000. Contingency expenditures last year were around \$7,000.

Mr. Pollock made a friendly amendment that the recommendation would be:

\$16,319 for the six programs that were identified as being essential
\$20,000 in rehabilitation housing funds
\$33,962 in property acquisition for the community center
\$4,000 additional for contingency, which would bring it back up to a level with which staff would be more comfortable.

The amendment was acceptable to the seconder.

Mr. Whelan expressed his opposition to this motion stating more thought needs to be given to the location of the Community Center.

The motion to amend carried 6-1 by a roll call vote. Voting aye were Members of the Committee: Hayes, Kearns, Patt, Pollock, Ryan, and Taylor - 6; voting nay: Whelan - 1.

Following debate, the main motion, as amended, carried 6-1 by roll call. Voting aye were Members of the Committee: Hayes, Kearns, Patt, Pollock, Ryan, and Taylor - 6; voting nay: Whelan - 1.

Mr. Taylor moved to send **A Resolution Approving a Second Modification to the Urbana HOME Consortium and City of Urbana Consolidated Plan Annual Action Plan Submittal for Program Year 1996-**

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1997 to Council for approval. The motion was seconded by Ms. Patt.

Mr. Pollock moved a friendly amendment that staff bring this back in whatever form it needs to be in to support what was just passed. There was no objection from the mover and seconder.

Following debate, the motion carried 6-1 by roll call vote.

Voting aye were Members of the Council: Hayes, Kearns, Patt, Pollock, Ryan, and Taylor - 5; voting nay: Whelan - 1.

Mayoral Appointment to Traffic Commission: Carolyn Kearns

Mayor Satterthwaite announced the appointment of Ms. Kearns as the Chair of the Traffic Commission. Ms. Kearns will be replacing Ms. Ryan, who resigned due to other obligations.

Discussion of Building Code Issues

Michael Wiest, representing First National Real Estate, addressed the Committee to inquire how the City could allow a building to be built that was not handicapped accessible? Does handicapped accessible mean wheelchair accessible?

Dennis Stalter, Tamara Anderson, and Nancy Clausen, all representing First National Real Estate, addressed the Committee in support of the issuance of an occupancy permit for the New Yorker Apartment Building at 302 South Cedar.

Susan Robinson and Cathy Saum, representing Zoom, addressed the Committee in support of the issuance of an occupancy permit for the New Yorker Apartment Building at 302 South Cedar.

Blaine Fogel, 351 S. American Street, addressed the Committee as a building contractor interested in the building code issues of the City of Urbana. Mr. Fogel supported the issuance of an occupancy permit for the New Yorker.

Ms. Patt stated that the memo from staff says that the City of Urbana does not enforce the provisions of the Fair Housing Act of 1988 and questioned why it does not?

Building Safety Manager Craig Grant replied that the legislation is a Federal Act, and while the act does permit certain provisions of it to be enforced by local jurisdictions at their choice, there are several requirements of the act that are reserved for Federal enforcement. The City is obligated under State mandate to apply the Illinois Accessibility Code Standards. In the past, Councils did not enact the Fair Housing Act of 1988 as a local law.

Ms. Patt questioned, with the building already built, what are the options for coming into compliance with the setback regulations, if the building is found to be nonconforming?

Mr. Grant stated that a solution in similar cases has been to purchase back that portion of the originally platted lot that the adverse possession claim was made against. It might also include seeking a variance through the Zoning Board of Appeals, if standing was found to exist, to allow that. There is also the remote possibility of reconstructing a portion of the building to bring it into compliance.

Ms. Patt inquired why the parking lot is not considered a story. It seems to fit into the definition of functional space?

Mr. Grant stated that in terms of provisions of functional space and whether or not a structure is a multi-story housing unit, both the City of Urbana and the City of Champaign Building Safety Divisions have been interpreting parking garage levels as accessory to the rooms and spaces within a facility that house the major activities for which the building or facility is intended. This interpretation was based on the way parking is generally treated as an accessory to the principal uses of a building.

It has recently come to our attention that John Anderson, who has been responsible for developing the Illinois State Accessibility Code, does not agree with staff's interpretation of the definition of functional space as relates to parking garages. Staff was not aware of this opinion when this project was reviewed and does not agree with this interpretation.

Mr. Hayes inquired if staff received the entire project at one time?

Mr. Grant stated that the original architectural drawings, including the foundation work and floor plan came first, and the plumbing, mechanical and electrical sub-systems were provided subsequent to that. The foundation permit was issued from the building plans.

Mr. Pollock inquired if the Temporary Certificate of Occupancy was designed for 90 days to make sure that the small code items are dealt with? What happens if people move into the building and the court finds in favor of the neighbor in the adverse possession suit and the building becomes nonconforming?

Mr. Grant replied that, based on discussions held at staff level, it appears that reference to the pending matters that could

affect the building's compliance with the City ordinance could be noted in the Temporary Certificate of Occupancy. This would give tenants notification of the potential that there could be a change in their situation. These changes are not predictable at this time. It is entirely possible that this type of situation could be settled with no impact on the occupant.

Mr. Pollock stated that interpretation of the BOCA Code is a staff function not a Council function. Council can change the local code and how legislation and enforcement are done, but these decisions were made by staff and that is within their authority.

Mr. Pollock moved to request staff to review the language in the BOCA Code and present to Council alternatives which will prevent a recurrence of this situation. The motion was seconded by Ms. Patt.

Mr. Pollock stated that this motion is intentionally broad. The building appears to be a four-story building. If there is a way to lower the amount of dirt that can be thrown up against a building and thereby call it a three-story building, which alleviates the necessity for developers to make it accessible, that should be explored. This situation should not happen again.

Mr. Taylor stated that the motion assumes things that are not necessarily assumed. Preventing a recurrence is not something that he would be willing to direct staff to do. He would be willing to support a motion to consider options.

Mr. Pollock stated that he would amend the motion to read: Staff is requested to review the language in the BOCA Code and present to Council alternatives about the issue of three versus four stories and how much of the building can be out of the ground and how high berms can go to meet that requirement.

Mr. Grant suggested, as a point of clarification, that the real issue is story above grade, when and how it happens, and what constitutes a story above grade.

Mr. Pollock said that wording is acceptable. The motion is amended to state: Staff is requested to review the language in the BOCA Code and present to Council alternatives about what constitutes a story above grade. The amendment was acceptable to the seconder. The motion, as amended, carried by a voice vote.

Mr. Pollock moved that a permanent Certificate of Occupancy should not be issued until the adverse possession suit and the State of Illinois Environmental Barrier Act law suit have been resolved. The motion was seconded by Ms. Patt.

Mr. Pollock stated that Council cannot force this issue. All Council can do is let staff know that there is a concern on this issue. Council does not have the ability to direct staff in this matter. It is administrative and up to the Mayor.

Mr. Pollock stated his concern about issuing a permanent Certificate of Occupancy if it becomes obvious that either by State law or by action of the Court that this building is nonconforming.

Ms. Patt agreed with expressing the sense of the Council that an permanent Certificate of Occupancy not be issued until these matters are settled. What is the impact if a temporary Certificate is issued and a permanent Certificate is never issued?

Mr. Grant stated his understanding from discussions with City Attorney Jack Waaler, that provisions do exist that temporary Certificates of Occupancy can be revoked due to the expiration of time for items that have not been corrected. If every local code provision item was completed, and final Certificate of Occupancy was requested, if a provision in the temporary certificate stated no final certificate could be issued until cases by other entities were resolved, it is not clear that there would be any effect upon the building at that time. The City Certificate of Occupancy requires compliance with the Zoning Ordinance of the City of Urbana and the construction which was authorized by the permits complies with the provisions of the Building Code and other related codes, laws, and ordinances of the City of Urbana.

Mr. Whelan suggested an amended wording of the motion to state "that staff investigate whether a permanent Certificate of Occupancy should be issued while the adverse possession suit and State of Illinois complaints remain unsolved." The wording was acceptable to the mover.

The motion, as amended, is "that staff would investigate whether a permanent Certificate of Occupancy should be issued while the adverse possession suit and State of Illinois complaints remain unresolved." The motion carried by a voice vote.

Mr. Pollock stated that he would like to discuss whether either portions of the F.H.A. or the Environmental Barriers Act should somehow to linked to what is approved and done on a local level. The City is responsible for enforcing the State issue, perhaps it should be written that it is a part of our code. It is questionable whether the City should get into enforcing the Federal issue, but the Human Relations Commissions may recommend that. It is a concern that without some ruling from the State, this issue could recur.

Jim Green, Attorney for First National Real Estate, stated

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that this is a situation where the City staff properly issued a building permit and the developer relied upon that permit. There is a doctrine called the Doctrine of Municipal Estoppel which would compel the City to issue the occupancy permit. The Council cannot interfere at this point.

Ms. Patt moved to request staff to present to City Council, language for City Code changes to enable City enforcement of the accessibility provisions of the Federal Fair Housing Act of 1988 as they pertain to new construction and existing structures. The motion was seconded by Mr. Hayes.

Ms. Patt stated her surprise that, despite the fact that Congress passed this legislation 8 years ago, the City does not enforce it. Staff has stated that they do not enforce it because they have never been directed by ordinance to do so. The law was passed for the purpose of increasing the development of accessible or adaptable housing units to better promote fair housing opportunities to people with disabilities. This would address the central concerns of this issue in the future.

Mr. Pollock inquired of Mr. Grant if the builders were informed that there were Federal housing standards that needed to be met and needed to be considered in the planning? Mr. Grant stated that they were informed, but it was done in the plan review letter that went to the architect. The architect said that he shared it with the developer.

Mr. Pollock inquired if this building meets F.H.A. standards? Mr. Grant stated that it is his opinion that it does not.

Mr. Pollock stated that it is important that the implications of these changes are understood. This issue needs to be discussed with all concerned parties to assist in making decisions.

Mr. Whelan indicated that he cannot support this motion.

Mr. Taylor moved to amend the motion to investigate the advisability of such enforcement by this Council. The motion was seconded by Mr. Pollock.

Ms. Patt stated that she had no idea there is so little support for the Federal Fair Housing Act and that there is a need to proceed with caution before the law is adopted. This amendment implies that the City Council questions the advisability of this Act.

Mr. Taylor stated that his concern is not whether it is a good law or its spirit, or the idea that we should make housing available to all Americans. What he questions is that the Federal law

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provided that the Federal government would enforce that law. There are some laws that the Federal government enforces, some that local government enforces, and some that both enforce.

The amendment carried by a voice vote.

The main motion, as amended, carried by a voice vote.

Adjournment

There being no further business to come before the Committee, Chairperson Ryan declared the meeting adjourned at 9:55 p.m.

Respectfully submitted,

Elaine Taylor
Recording Secretary

*This meeting was taped.

**This meeting was broadcast on cable television.