MINUTES

PROPERTY STANDARDS BOARD
MAY 28, 2015

Council Chambers	**6:30 p.m.**	**1945 E. Jackson Road**

DINNER AND BRIEFING SESSION: 6:00 PM: The dinner and briefing session is held in the City Manager's Conference Room, behind the City Council Chambers. No public testimony will be allowed at the briefing.

CALL MEETING TO ORDER: 6:35 PM

Board members present were, Vice Chair Rick Pfeil, Andy Folmer, Debi Whitley, Roy Atwood, James Wilson and Scott Carstens. Chair Alan Overholt, Stephanie Doss and Dick Calvert were absent.

Staff members present were Asst. City Attorney Susan Keller, Prosecutor Benjamin Samples, Brett King, Building Official; Environmental Services Director Scott Hudson, Code Enforcement Officer Teresa Iglesias, Officers Robert Stuart and Kevin McCoy, and Kathleen Engelhardt, Administrative Support.

1. Approval of **minutes** of the March 26, 2015 meeting.

Atwood moved approval of the minutes of the March 26, 2015 meeting; second by Wilson and the motion was approved with a unanimous 6-0 vote.

PUBLIC HEARING

2. Case PSB 2015-06. The Carrollton Environmental Services department inspected the structure at 1718 ROSEMEADE CIRCLE ROSEMEADE ADDN 3 BLK 23 LOT 10 PROPERTY ID# 49313 and found it to be a safety hazard. Staff has requested a hearing before the board to issue a Notice and Order to demolish or repair said structure within a specified period of time.

Vice Chair Pfeil administered the Oath to those testifying on the case.

Teresa Iglesias stated that she has been a Registered Code Enforcement Officer since 2009. She testified that the subject property was a vacant, one story single family home located at 1718 Rosemeade Circle in Denton County. The title search and appraisal district records show the property to be owned by Robert E. and Diana Taylor with possible lien holders being Amerigroup Mortgage Corporation, Intercom Global Services, Safeguard Properties, Mortgage Electronic Registration Systems, and Freedom Mortgage Corporation c/o Aquin Loan Services, LLC. She testified that she first inspected the property on May 28, 2014 and observations at that time included high weeds and grass, fallen tree branches in the front yard and damage to the eaves and soffit on the northeast corner of the structure. On July 30, 2014, she responded to a swimming pool complaint stating that the above ground swimming pool was holding green, stagnant water causing a mosquito problem and the equipment appeared to be inoperable. At that

point the City had the property mowed and treated the pool with chlorine tablets. No contact was received from the owners or the lien holders. She testified that she prepared the Board packet from the records in and under the control of the Environmental Services Department and included photographs of the violations mentioned. Copies of the packet were mailed by regular and certified mail to the property owner and each lien holder on April 27, 2015. Written notice of the violations and written notice of the hearing was prepared and mailed to the property owner and each lien holder by regular and certified mail on April 27, 2015 as required by City ordinance. Notice of the hearing was also published in the *Carrollton Leader* on May 10, 2015. Iglesias testified that as of May 28, 2015, the eaves and soffit had been repaired and the swimming pool had been drained, but remained in disrepair and distributed copies of the photographs to the members of the Board. In summary she stated that the property was a single family home in a single family district with a swimming pool that needs to be brought up to Code or demolished. She testified that all legal requirements for notices were met. Staff recommended that the Board determine that the swimming pool at 1718 Rosemeade Circle, Carrollton, Texas was dangerous, substandard and a hazard to the public health, safety and welfare. Staff also sought a Notice and Order for the property owner to demolish the swimming pool within the next 30 days and if the property owner fails to do so in the specified time, that the City be authorized to demolish the swimming pool and attach the cost as a lien against the property.

Vice Chair Pfeil administered the Oath to the following individuals: Rob Philipon, William Ogden, and Suzanne Ogden.

William Ogden, 1720 Rosemeade Circle, Carrollton, stated his property was immediately adjacent to the subject property and that he and his wife have been residents at the location for 20 years. He stated the property had been vacant and derelict for a year and noted feral cats, mice and rats infesting the area. He stated that a vacant house was not the ideal situation and voiced concern about human vermin entering and using the house. He felt the property owners had fled and would be hard to find.

Suzanne Ogden, 1720 Rosemeade Circle, Carrollton, stated several families have lived at the subject property and stated that the last time she spoke with anyone was Father's Day 2014. She voiced concern about the dead tree and stated the home was getting smelly. She also noted damage to the home by the moving van. She also voiced concern about mosquitoes due to the swimming pool.

Rob Philipon, 1716 Rosemeade Circle, immediately adjacent to the subject site, reiterated the concerns voiced by the Ogdens and noting that the last time he spoke with Diana Taylor was February 2014 when she advised that her husband had left, the electricity had been cut off and the water was about to be shut off. He stated that the house had been vacant since March 2014. He stated the house was an eye-sore and referred to a conversation he had with police officers about evidence of periodic use but no squatters. He expressed his desire for the home to be maintained properly.

Vice Chair Pfeil asked Iglesias who made the repairs to the home and she testified that there was a posting by Safeguard and she assumed the repairs and draining of the pool was conducted by Safeguard. She stated that she had not received any contact since the notice was mailed.

Rob Philipon stated he noticed activity around the house recently; the pool was drained either May 26 or 27 and the soffit was repaired sometime during the week and voiced concern about the lack of maintenance before then.

Folmer moved that, in the case of PSB 2015-06, the public hearing be closed and that the structure and swimming pool at 1718 Rosemeade Circle be deemed dangerous, substandard and a hazard to the public health; and that staff be directed to issue a Notice and Order for the property owner to repair or demolish the swimming pool and repair the damaged eaves and replace the missing soffit boards on the residential structure within 30 days. If the owner fails to comply in the specified time, the City of Carrollton may demolish the swimming pool and make repairs to the eave and soffit, and attach the cost as a lien against property.

Whitley asked about reports of animals and rodents and Iglesias stated that she was unaware of problems that may have been reported to the Animal Services Department. She stated that the eaves and soffit have now been repaired and she felt that area was where the animals could have been entering the home. With regard to the tree, Iglesias stated it still had green leaves and that if it fails in the future, it would be addressed by Code Enforcement for nuisance abatement.

Atwood seconded the motion and the motion was approved with a unanimous 6-0 vote.

3. Case PBS 2015-03. The Carrollton Police Department has identified the multi-family community at Frankford Place Apartments, 1811 E. Frankford Road, Carrollton, Texas 75007, Furneaux Creek Addn Lot 1, SC1003A-000000-0000-0001-0000, County – Denton, Property ID 86136, and requires it to be included in the Mandatory Crime Reduction Program.

Vice Chair Pfeil administered the Oath to those testifying on the case.

R. David Weaver, Attorney, stated that they requested documents under the Open Records Act and received 16 reports that were fully redacted with the exception of the title, the type of report, report number, incident number, and a date and time and location and the reporting officers. He noted that the Attorney General affirmed the police department's position pertaining to disclosure but he stated that his client was being tried with secret evidence and he felt that was incorrect. He stated that on three different occasions, a single call and a single incident resulted in the generation of multiple reports. He stated that two years ago when the Board was confronted with the same situation, the Board removed the multiple reports and counted one point for each of the incidents. He referred to Report No. 2014-008957 and 2014-008958; incidents that occurred at the same time, same location, same apartment; a single visit by the police department, yet two reports were generated. He referred to Report No. 2014-005342, Report No. 2014-005343 and Report No. 2014-005344 and stated again it was the same location, same place, same time, same officer with three reports generated. Lastly he referred to Report No. 2014-007382 through Report No. 2014-007387; six reports out of what was originally a disturbance call. He stated that a search warrant was obtained and drugs were found on the premises resulting in a separate offense report for each type of drug found. He stated that two arrests were made and they did not contest the arrest count but felt there should be only one incident report; not six. He stated that if all the redacted reports were counted and the eight removed, his client would be below the threshold. He referred to Report No. 2014-001285; a criminal trespass report that does not state where the criminal trespass occurred; it gives an address but doesn't state who reported it and the report he was provided was completely redacted. He stated there were three arrests reports where the police department were executing warrants for failing to appear for traffic tickets and referred to No. 2014-03916, 2014-02387 and 2014-04102. He stated that the first two were police officers executing arrest warrants at the property. The third was an incident that was reported by one of the residents about a couple that was cavorting outdoors and the report was unclear about where the cavorting was occurring. He stated that the individual arrested lived on Trinity Mills Road. Further, Report No. 2014-006854 was a resident reporting a theft of a car and the police determined

the car had not been stolen; it had been towed. He stated that his understanding of the purpose of the ordinance was to curb criminal conduct that occurs upon apartment complex property and it was a good idea to do that but when arriving at indexes where an apartment complex is subjected to potential criminal penalties, he would think that the City, City Manager, Police Department to be diligent in making sure that what they're counting is legitimate. He stated that the Board had discretion with regard to combining multiple reports into a single report because they did it two years ago and he referred to Section 99.13 when speaking to an appeal of the Board's decision to the District Court, the ordinance specifically states that the appeal is limited to the question of whether or not the Board abused its discretion. He felt that if the Board could only consider the math without taking into account some of the issues he raised, then the meeting and the appeal was useless. He stated that if the Board includes all of the fully redacted reports and even if the Board includes the arrests for warrants and even if the Board includes the offense that was later determined not to be an offense and even if the Board includes the report about the cavorting and resulting arrest of the traffic warrants, but the Board excludes the duplicated reports, his client's index goes down to 18.61 which would be well below the City index. He stated it was his position that his client's real crime index did not exceed the City wide index.

Prosecutor Benjamin Samples stated that the reports were redacted because they were all pending criminal investigations and some may address juvenile issues and therefore could not legally be provided to the appellant or to the Board. In an effort to provide as much information as possible, the redacted copies included the date of the offense, the name of a person, a case number and that it was an offense which was sufficient in general to apprise him of what offenses were counted at the time. He stated there were 49 offenses and 11 arrests counted. With regard to the ordinance in place two years ago, Mr. Samples reminded the Board that the ordinance had been amended since that time with tweaks to the formula and noting that what makes the current ordinance amenable was that the index was based on the City. He stated that the City's threshold was at 19.77. He stated that the index for the Frankford Place Apartments was based on police investigations; police being called to the complex and he noted it was the No. 1 call area in the City. He called Ofc. Bobby Stuart and asked him to address the comments by Mr. Weaver.

Ofc. Stuart stated he was a detective with the Intelligence Division of the Carrollton Police Department. He stated there were two incidents of burglary habitation that resulted in multiple narcotic offenses being written. With regard to the report not clearly stating where the offense occurred, Ofc. Stuart affirmed that the report stated that the offenders were near a particular building on the greenbelt side; it didn't specify whether they were actually on the property. The subject was contacted after the fact by the officers as he was moving back through the complex. Mr. Samples asked the detective if the call was from a resident of the complex and Ofc. Stuart stated that the report showed the caller to be a neighbor who was close and heard it occurring outside the window. With regard to Mr. Weaver's statement about a vehicle being towed rather than stolen, Ofc. Stuart stated he did not have a supplement report showing the vehicle was towed rather than stolen and therefore could not confirm the statement. He stated that a resident called the police to report a black, 1993 Toyota 4x4 stolen and the police responded to the call. In response to Mr. Samples, Ofc. Stuart explained the review process of the offenses to determine the countable offenses and crime index.

Mr. Samples explained to the Board that there was a process that the officers follow and stated the percentage was based on the City as a whole and its level of protection. He stated that the Frankford Place Apartments was working to better its index but was not there yet. He argued that the Board needed to take into account what's being affected; the safety of the community. He stated the prevention program sets a security around the area to insure the safety of its citizens. In response to Mr. Samples, Ofc. Stuart

stated that except for Walmart, the Frankford Place Apartments generates more calls than any other location in the City. Mr. Samples asked that the Board uphold the ruling.

Vice Chair Pfeil gave Mr. Weaver an opportunity for rebuttal. Mr. Weaver reiterated that the arrests for traffic violations that did not occur on the property should not be counted. He stated that calls to the police for questionable or suspicious behavior were not a bad thing. He took issue with the statement that the police were called to the complex more than any other location other than Walmart stating that was not what the appeal was about; not what the calculation was about and reiterated that the Board had discretion to combine multiple offense reports that arise out of a single police call into a single chargeable report.

Atwood stated that he was fully in favor of the ordinance and fully understood the impact it has had to clear up crime in the apartment complexes. However, he felt the ordinance needed to be applied fairly and asked for the definition of a reportable event. Mr. Samples read the definition: "reportable offenses include but are not limited to any and all incidents that occur at an apartment complex that cause an offense or arrest report to be generated by the Carrollton Police Department." He underscored that it includes any and all incidents that result in an arrest or an offense. He stated it was being applied throughout the City and the apartment complexes. Atwood asked if it was Mr. Samples' position that the two arrests and six offense reports that resulted from one situation should be counted as eight charges against the complex and Mr. Samples replied affirmatively. Atwood asked if it were possible that depending on the number of apartments in the complex where the two arrests and six reports from one call could put the complex in the program and Mr. Samples replied technically yes. Atwood referred to Report 6854 noting that the fourth page showed that the person discovered that the black Toyota was not stolen but towed from his apartment; the person was advised that the vehicle was at Longhorn Wrecker. Ofc. Stuart stated the information should have been redacted and stated he did not have a supplement to the report and if that was correct, the Board should discount that report. Atwood asked if the complex was provided with the same packet of information provided to the Board and Mr. Samples replied affirmatively. He stated the only thing the complex hadn't seen was marked Exhibit B that shows there was an offense that was vetted but the City can't release the information. Atwood noted that the complex was six offenses over the limit and noted the two possession cases and two assault cases that ended with multiple offenses for the same apartment complex for the same call. Mr. Samples again referred to the ordinance defining any and all offenses or arrests. Ofc. Stuart explained the ordinance stating that if an officer responds and it results in an arrest on the property or if a written offense report was made it is a countable offense. Atwood asked if multiple reports were generated because there were different drug substances in different amounts and Ofc. Stuart replied affirmatively. He went on to explain the call for a burglary habitation that also resulted in separate charges based on the drugs found.

Whitley asked if the index was calculated exactly the same for every complex and Mr. Samples responded affirmatively. She acknowledged being on the Board for the past two years through the changes to the ordinance and she stated that all the things for Frankford Place were valid. She felt the City was safer because of the ordinance; felt the apartments were doing better and was comfortable supporting the City because the offenses were counted the same for everyone. She stated she would give the complex leeway on the one towing call, but not the others.
Wilson voiced his support for the ordinance and had an understanding for 'any and all' offenses as well as the formula but felt the override of the protections and of the act and of the ordinance was far more beneficial to the community. He stated that any math formula that tries to define police action and reports would always be an open-ended issue.

Cartsens asked for an example of when the City would combine offenses under the ordinance and Ofc. Stuart replied that he could not give an example because they don't do it and the ordinance doesn't allow for it.

Vice Chair Pfeil stated that the appeal was being applied to the current ordinance and asked if the definition of a reportable event was the same as it was two years ago. Ofc. Stuart stated the only change from the prior ordinance was the original ordinance basically said that anyone who lived on the property was arrested anywhere in the City would have counted against the complex. Vice Chair Pfeil stated the property owner was the party responsible for the security, lighting and different things and part of the intent of the ordinance was to get the property owners to take responsibility for the property and if necessary move out the offending individuals so the problems don't occur. He asked if there was data on how many occurrences that the property owner or manager self reported. Ofc. Stuart stated he did not but would have that data at the next review. He also stated that he talks to the manager of the complex weekly and that the manager was working hard to clean up the complex and was being very cooperative.

Folmer gave the example of a person slashing tires on all resident vehicles and asked how many reports would be generated and Ofc. Stuart replied it could be 300. He stated he supports the ordinance but had a problem. Mr. Samples felt that each offense was a separate offense and affects every citizen and each one should be counted because that's the issue. Ofc. Stuart pointed out that everyone in the city is held to the same standard and when it happens in a neighborhood, each separate offense goes into the formula and the City's crime index was based on crime throughout the entire city.

Mr. Weaver stated that the City Council decided to build this ordinance around official police reports; the problem with that is that there were State laws that sometimes create confidentiality with respect to police reports that are still under investigation, involve juveniles and so consequently the fate of an apartment complex in this City that may be subject to this program is at the hands of police reports that the apartment complex will never get to see before a determination is made that it must be a participant in the Apartment Crime Reduction Program; and that's essentially a trial by secret evidence. Therefore, his position was that if the determination was upheld, there would be a constitutional challenge and it would be up to the District Court.

Atwood referred to the definition of reportable event in the ordinance and stated he didn't find any ambiguity and in the definition of reportable event, the six drug charges from the one apartment were all each a reportable event. Mr. Weaver stated because they made six different reports when he did not believe there was any State law or City ordinance that required a police officer to write a separate offense report for each individual charge that may be brought against an individual. He referred to the cities of Fort Work and Arlington that do not write separate reports. Atwood stated he was sensitive to his position with respect to juvenile offenses and stated those were removed with the change in the ordinance. Mr. Weaver stated there were two offenses where juveniles were involved with one being assault with bodily injury and assault on a public servant. Atwood noted that with those two removed the complex would still be over the limit. Mr. Weaver also referred to the arrest of the individual walking across the complex; two warrants only; the stolen vehicle that was determined was not an offense; one that was a trespass that was completely redacted to which Ofc. Stuart described the event where an officer responded to an alarm that was sounded because a juvenile female had hidden in the business center to use the computer.

Wilson asked the City how sure it was that the definition and formula were legal and Vice Chair Pfeil stated the Board's purpose was to make an interpretation and to approve or deny the appeal.

Atwood asked Ofc. Stuart why the City writes a separate offense report for each drug charge as an example. Ofc. Stuart explained that each offense causes a separate warrant number and he was unaware of a way to combine separate offenses into one report. Each offense requires a separate offense number and if it goes to an arrest, it requires a separate warrant number.

Whitley moved that the Frankford Place Apartment Complex remain in the mandatory apartment complex Crime Reduction Program until such time the apartment is able to reduce its apartment complex crime index to a level less than the crime risk safety threshold based upon a review by the Carrollton Police Department; second by Wilson and the motion was approved with a 5-1 vote, Folmer opposed.

Vice Chair Pfeil called a brief recess and reconvened the meeting at 8:20 p.m.

4. Case PSB 2015-04. The Carrollton Police Department has identified the multi-family community at Lynn Villa Apartments, 1310 School Road, Carrollton, Texas 75006, WILLIAM LARNER ABST 799 PG 514, TR 11 ACS 1.00,- INT201200154934 DD04242012 CO-DC County-Dallas, 0799514101100 1CC07995141, and requires it to be included in the Mandatory Crime Reduction Program.

Vice Chair Pfeil administered the Oath to those testifying on the case.

Greg Howard stated the complex had 36 units and the complex received 10 arrests and two offenses. He stated one individual was parked in the parking lot; was arrested for DWI and an offense was written but he was not a tenant of the complex and felt both the arrest and the offense should not be counted. He stated that they rigidly screen every tenant. He stated that as they become aware of guests of tenants that cause problems, they take action to get rid of the problems. He listed tenants that were asked to leave because of such situations. He testified that four individuals continue to live at the complex and noted specifically one was a crime of poverty because the woman was arrested for failure to pay the traffic tickets. He stated that he believes in the usefulness of the ordinance and stated he and his wife would like to see the ordinance work in a positive way rather than a punitive way. He stated that the positive way to make it work better was to work towards a way of responding and then if you must push people push them when they don't respond. He stated that an owner is being responsible when the violators are evicted and not allowed to return; you are responsible when you take action such as calling the police when drugs are suspected.

Shirley Howard stated they were working toward the same goal; to reduce crime; to eliminate crime. She felt they should not be punished because people go to the complex. She felt that because they were actively trying to eliminate crime and help the police catch problem people, they should not be blamed. She testified that out of the list of 12 individuals, only four were tenants, and they should not be blamed for the crimes of the eight.

In response to Mr. Samples, Ofc. Stuart testified about each person arrested reviewing each of the causes for arrest. Mr. Samples explained and stressed to the Board that the individuals arrested remained at the complex a long enough period of time that the officers knew where to find the individuals and stated that none of the arrests involve driving violations. He asked that the Board uphold the appeal.

Vice Chair Pfeil offered Mr. Howard an opportunity for rebuttal. Mr. Howard stated that it's not necessarily true that the complex was a known location and stated that the police will follow any lead they

get to arrest the violator and he agreed with it but the fact that a violator was at the complex against their wishes was not being accounted for in the process. With regard to the formula, he asked from a fairness point of view, if everything was being held to an equal standard. He felt the whole thing should be based on a sense of what was right rather than pure numbers.

Atwood stated his understanding and pointed out that the reason for removing self reported crimes was an effort to encourage complexes to self report. He asked Ofc. Stuart to address the person arrested after being found asleep in his vehicle. Ofc. Stuart stated the ordinance did not give discretion to remove the offense and arrest from the count noting that the driver did not pull into the complex because he was being stopped by the police. He also explained that they were able to determine that the individual arrested was living at the complex illegally.

Whitley asked about the arrest of Christopher Gutierrez and Mr. Howard stated that because of the problems they had with him, they called the police and also made his mother sign a letter saying she was not to let Christopher into the complex. Whitley felt the arrest should not count against the complex because the mother was required to sign the letter prior to the arrest because the complex tried to stop the problem. Mr. Howard testified with regard to the person who failed to register as a sex offender, he stated the person was the boyfriend of the daughter of a tenant and they had never seen the person at the complex. He stated that the mother's lease was not renewed because of the issue. Whitley stated she liked the idea of the positive way to handle things and felt it should be addressed with the City Council but the Board had to follow the ordinance as written. Mrs. Howard stated they also want to support the police and eliminate crime but they were placed in an impossible situation and again stated they should be blamed if they don't take any action but not otherwise.

Vice Chair Pfeil asked that if the complex addresses the items required by the program, could they be removed from the program at that time and Ofc. Stuart stated the complexes were evaluated January 1 each year and once required to be in the Program, stay in the Program until the next review.

Vice Chair Pfeil asked if there were any other speakers and there were none.

Atwood moved that the Lynn Villa Apartments remain in the Mandatory Apartment Crime Reduction Program until such time the apartment is able to reduce its apartment complex crime index to a level less than the crime risk safety threshold based upon review by the Carrollton Police Department; second by Carstens and the motion was approved with a unanimous 6-0 vote.

CHAIR/BOARD/STAFF REPORTS

Building Official Brett King announced that they received an application for a Board of Adjustment case for the month of June and expected it would be set on the June 25, 2015 agenda. He noted that a Board of Adjustment case requires seven members for a quorum and seven votes to grant an appeal or variance.

ADJOURNMENT

Roy Atwood moved to adjourn the meeting; and the motion was approved with a unanimous 6-0 vote. The meeting was adjourned at 8:58 p.m.

Chairperson Secretary