

**MINUTES OF THE REGULAR MEETING  
OF THE SUBSTANDARD BUILDING BOARD  
OF THE CITY OF NORTH RICHLAND HILLS, TEXAS,  
HELD AT THE COUNCIL WORKROOM, 4301 CITY POINT DRIVE  
JANUARY 8, 2019**

The Substandard Building Board of the City of North Richland Hills, Texas met on the 8<sup>th</sup> day of January 2019 at 6:00 p.m. in the Council Workroom.

Present:	Brian Crowson	Chairman, Place 6
	Lynn Motheral	Place 1
	Bill Wait	Place 2
	Deryl Brown	Place 3
	Billy Parks	Place 5
	Robert McCary	Place 7

Staff Members:	Stefanie Martinez	Director of Neighborhood Services
	Audrey Cappallo	Executive Secretary
	Kellie Brady	Assistant City Attorney
	Rayneice Jones	Lead Code Compliance Officer

**1. CALL TO ORDER**

Chairman Crowson called the meeting to order at 6:00 p.m.

Chairman Crowson took attendance and Mr. Deryl Brown was the only Board Member not present at roll call.

**2. APPROVAL OF MINUTES OF THE SEPTEMBER 11, 2018 SUBSTANDARD BUILDING BOARD MEETING.**

**MR. BILL WAIT MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 11, 2018 SUBSTANDARD BUILDING BOARD MEETING. MR. BILLY PARKS SECONDED THE MOTION.**

**MOTION TO APPROVE CARRIED 5-0.**

**3. ELECTION OF CHAIR AND VICE CHAIR**

Chairman Crowson asked if there are any nominations for Chair. In response, Mr. Wait recommended that the Board keep same Chairman. Chairman Crowson accepted the nomination.

**APPROVED**

**MR. BILL WAIT MOVED TO KEEP CHAIRMAN CROWSON AS CHAIRMAN. MR. LYNN MOTHERAL SECONDED THE MOTION.**

**MOTION TO APPROVE CARRIED 5-0.**

Chairman Crowson asked if there are any nominations for Vice Chair. In response, Mr. McCary recommended that the Board keep same Vice Chairman. Vice Chairman Mr. Motheral accepted the nomination.

**MR. ROBERT McCARY MOVED TO KEEP VICE CHAIRMAN LYNN MOTHERAL AS VICE CHAIRMAN.  
MR. BILLY PARKS SECONDED THE MOTION.**

**MOTION TO APPROVE CARRIED 5-0.**

**4. 2019 SUBSTANDARD BUILDING BOARD MEETING DATES**

Chairman Crowson informed the Board that the Substandard Building Board meetings are held on the 2<sup>nd</sup> Tuesday of each month unless informed otherwise by City Staff. The Board members were handed a handout earlier with all 2019 Substandard Building Board dates.

Ms. Martinez informed the Board if a meeting needs to be cancelled, they would receive a notification from City staff about the cancellation.

**5. SUBSTANDARD BUILDING BOARD ANNUAL TRAINING – KELLIE BRADY,  
ASSISTANT CITY ATTORNEY**

Kellie Brady, Assistant City Attorney, advised the Board that the training would consist of two parts, the procedural aspect and the Chapter 54 Texas Local Government Code.

Ms. Brady informed the Board that the procedural aspect is making sure we have adequate records of the meeting should an Order from the Board be appealed to the District Court. It very important to have your microphone on when you are addressing the Board to make sure your voices are recorded and we need to know who is speaking to get that adequate record for the court. Any appeal from the Board is considered de novo appeal, which means the whole process starts over with the District Court but this hearing can be used for evidentiary purposes, if needed.

Ms. Brady provided the Board a packet with Robert's Rule information, which are rules regarding the structure of the meetings and how amending motions are handled. It is really up to the Chairman to direct the meetings.

Mr. Motheral asked Ms. Brady if the Board is going to follow Robert's Rule or if they are are they going to lean on Robert's Rule. Ms. Brady responded Robert's Rule falls into place when procedural rules are not already in place.

Ms. Brady asked the Board to look over the Robert Rule packet, as this will give them what the basic rules and guidelines to construct the meetings.

Chairman Crowson asked Ms. Brady if he needs to use the wording "recognize" when he calls on a Board member to speak. Ms. Brady responded you do not have to use the wording "recognize" but make sure you say the person's name you call upon that wants to speak so that it is on record.

Chairman Crowson acknowledged the arrival of Deryl Brown at the meeting.

Ms. Brady pointed out the highlighted areas in the packet which are the main areas the Board deals with.

Chairman Crowson asked Ms. Brady if the Board's name needed to be changed as they handle nuisance, barking and other case types beside substandard cases. Ms. Brady replied that Chapter 54 Texas Local Government Code is called the Building and Standard Commission but a city can actually name the Commission Board whatever they want to call it. The Board's authority does not change with the name.

Kellie Brady, Assistant City Attorney, presented her training presentation on the Chapter 54 Texas Local Government Code. Ms. Brady informed the Board that they have authorization to hear variety of cases besides substandard cases based on the Chapter 54 Texas Local Government Code. Ms. Brady presented all the case types that the Board could be presented to the Board and the possible outcomes including civil penalties.

Ms. Brady informed the Board that the civil penalties under Chapter 54 Texas Local Government Code are much broader then the civil penalties that are allowed under our city ordinances. When the City Council created our ordinances and the Board, they limited the amount of civil penalties that could be issued. The Chapter 54 Local Government Code allows \$1,000 a day civil penalty to be issued whether the property is homestead or not. The city ordinance only allows up to \$10 per day civil penalty if the property is homestead however if the city decides they are not going to bring the case to the Board but take it to the District Court we can pursue \$1,000 per day civil penalty based on the Chapter 54 Local Government Code.

Ms. Brady informed the Board that they have judicial authority compared to other Boards who are considered more of an Advisory Board as they go to Council to present their recommendation and Council makes final decisions on whether to approval or deny their recommendation. This Board does not operate in that way. Everything comes here and Council never sees these cases as this Board is issuing the Orders. This Board has the same authority as a District Court Judge. This Board is not advisory and it seems there has been some confusion on this. When the City brings cases to this Board, they have already done a lot of that back work. They have worked with these property owners for a long time and tried to get them to come into compliance. The city staff is not bringing this Board a case just to say we need you to tell them to get into

compliance in actually they are coming to this Board because they need something more done as the property owners are not listening to them. This Board is like a penalty Board driven by enforcement verse advisory driven.

Chairman Crowson asked if their Order is appealed to District Court does the Board have to be present in court. Ms. Brady replied no as it would be a completely new case.

Mr. McCary asked if the Board would know beforehand if a case is going to the District Court instead of the Substandard Building Board. Ms. Brady responded no but Ms. Martinez will present to you later a case flow chart on how a case is handled before being brought to the Board. If we decided to take a case directly to District Court, the case would never be presented to the Substandard Building Board. A case could be taken to District Court after the case was presented to the Substandard Building Board if the property owner did not complied with the Order.

Chairman Crowson asked in what instances the City would take a case to the District Court instead of the Substandard Building Board. Ms. Brady replied it would have to be an emergency such as a life safety issue where it needs to be filed immediately and it can't wait until the next Substandard Building Board meeting the following month. We need to get an Injunction right now.

Chairman Crowson asked Ms. Martinez if the Substandard Building Board meetings date could be changed if an emergency case came up and they needed to come to the Board sooner than later. Ms. Martinez replied yes, we could move away from the current schedule if we needed to but state statute requires that we give the property owner 14 days' notice. We have to post the property and run it the newspaper. We would still be a minimum of 14 days before we could bring a case to the Board. Chairman Crowson asked Ms. Martinez with the District Court would you have to do the 14 days' notice requirement. Ms. Martinez replied no. Ms. Brady also responded that she could go down to District Court and file an Emergency Injunction and get it signed by the judge today if needed. Another reason to go to the District Court is the repair time, even though the Board can give 90 days to repair, the District Court could give the property owner a longer period of time to make the repairs especially when we they are going to do but we also know the repairs are going to take longer than 90 days. In addition, in District Court we have more option when it comes civil penalties.

Ms. Brady informed the Board that there are other types of cases that are not appropriate for the Substandard Building Board to hear such as zoning cases, which we would could take to District Court or Criminal Court. Water issue such as drainage could be taken to District Court.

Ms. Brady informed the Board they could hear animal cases but as of now, the city has not brought any of those cases to the Board as the city has been taking them to Municipal Court. This Board has authority to hear these cases and the authority to issue civil penalties.

Chairman Crowson asked if the animal cases would go to Municipal Court first before those cases are presented to the Substandard Building Board. Ms. Brady replied yes it could and the reason why is because the Municipal Court is criminal case and when it comes to the Substandard Building Board it is of a civil nature as we are asking for a civil penalty as the fine issued by the Municipal Court didn't deterred the property owner enough to come into compliance so it comes to the Substandard Building Board seeking civil penalty after that.

Mr. Brown asked how the dollar amount gets applies to our Orders for civil penalty, as he does not recall specifying amounts. Ms. Martinez replied all the civil penalty that have been issued by this Board, city staff has usually presented this information in the presentation that states they have been in violation for "x" amount of days and were asking for a specific amount that is based on the number of days. We do not randomly pick a dollar amount. We link it back to the numbers days at \$10 per day if homestead exempt or \$1,000 per day if not homestead exempt so if we do end up in District Court on an appeal we can justify the dollar amount. Ms. Brady stated that a civil penalty is an option not a must have so if the Board does not issue a civil penalty there would not be a dollar amount in the Order. Civil penalty can also be issued in conjunction with an Order to repair. It is not an either or option. In addition, the date of the Order starts the appeal period. The property owner has 30 days from the date of the Order to file an appeal with the District Court. Chairman Crowson asked so they could file an appeal on the 29<sup>th</sup> day of the Order. Ms. Brady said yes, your Order would then be negated, and a new case would start with the District Court.

Ms. Brady informed the Board that when a case is brought to them, the City has already been working with the property owner for a long period of time. It's important that the Boards sees the steps that the City takes before the case is brought to the Board and it's not just a case that is thrown in front of this Board and city just says here make a decision. Ms. Brady asked Ms. Martinez to come up and present her Case Flow Chart to the Board.

Ms. Martinez presented her Case Flow Chart to the Board showing the Board how a case is handled from the beginning and when a case reaches the point that, the case needs to be brought to the Substandard Building Board.

Chairman asked Ms. Martinez if cases brought to the Substandard Building Board go before the Municipal Court first. Ms. Martinez replied yes unless the property owner cannot be found. A Probable Cause Affidavit is issued before a case is presented to the Board. The City staff presentation will include what date the citation was issued.

Ms. Brady advised the Board that they need to be careful what they are saying to the people here. As it is the same thing as if they were sitting as a judge and offering services to the defendant. A judge can not offer to help a defendant or help the prosecutor or a plaintiff. The judge is there to issue a ruling based on evidence presented to them. If you offer service, you are going to conflict yourself out on making

any orders on that case and it would be inappropriate for you to sit on that case anymore.

Ms. Martinez informed the Board that in future presentation city staff will inform the Board on all the attempts they have made and any services city staff has offered the property owner.

Chairman Crowson asked Ms. Martinez if she could give him an estimate on how many potential cases could come to the Board if they do not get resolved. Ms. Martinez replied currently we have 30 substandard cases but most of the time they get resolved by the property owner.

Mr. Brown asked Ms. Brady if there is anything else besides offering services that she witness that might be concerning by this Board. Ms. Brady replied yes, just that this Board is not an Advisory Board. When we get here, we are at the punishment stage, which is this Board role.

Mr. Wait asked Ms. Brady if it would be proper if they asked the property owner if they have received information about help available to them and if they have taken advantage of that help. Ms. Brady responded yes, you could ask them those kind of questions. You can't just offer them services or provide them with that information.

Mr. McCary asked what happens when a property is demo, does the city own the property. Ms. Martinez responded no, we do not. The demo cost and any administrative fees will be put as a lien on that property. We do not own the property. The property would still belong to the property owner. Mr. McCary asked do they have to sell the property before city can collect on the lien for those fees. Ms. Martinez replied yes. Majority of our liens are collected on. We have a very good return on the filings we have done.

Mr. Parks asked what would happen if the property value sold were not enough to cover the lien. Ms. Brady responded legally there is hierarchy of liens. If the property sold in foreclosure our lien would probably land somewhere in the middle and it is possible if the dollar amount was low enough we might not recover that amount. Ms. Martinez replied if the property was not a foreclosure sale, we have a higher chance to recover because title company are really good about doing their research and reaching out to us for a lien payoff before they close on a property.

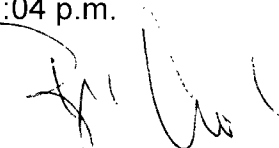
Ms. Brady informed the Board we have talked a lot about getting accurate records and another way for us to ensure we get accurate records is by do a swearing in process for any witness before they actually speak. We need to make sure they are sworn in under oath given their testimony because this is a Quasi Judicial process. The way the law is written you may swear them in but not required but it is always beneficial to do it as it makes people think twice before they say anything different. Chairman Crowson asked if he would be the person swearing them in. Ms. Martinez replied yes that would have to come from the Chairman. Mr. Brown asked if only the property owner needs to be

sworn in or is it anyone speaking about the property. Ms. Brady replied it is anyone that is testifying, speaking or providing any kind of evidence on the property including city staff.

Ms. Martinez introduce the Board to the newly promoted Lead Code Officer Rayneice Jones, as she will be handling most of the cases that will be presented to the Substandard Building Board.

**6. ADJOURNMENT**

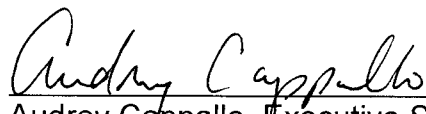
Chairman Crowson adjourned the meeting at 7:04 p.m.



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Brian Crowson, Chairman

ATTEST:



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Audrey Cappallo, Executive Secretary