

AUGUST 29, 2012
WAYNESBORO, PA 17268
SPECIAL MEETING RE: RENTAL INSPECTION
ORDINANCE

Council President Jason Stains called the special meeting of the Waynesboro Borough Council to order at 7:21 p.m. with the following in attendance:

Council Members – Benjamin Greenawalt, Craig Newcomer, Jason Stains, Wayne Driscoll and Michael Cermak (Darrel Potts was absent)

Mayor Richard Starliper

Borough Staff – Lloyd R. Hamberger, II, Borough Manager
Dan Sheffler, Zoning-Code Enforcement Officer
Kevin Grubbs, Head of Engineering Services
Sam Wiser, Borough Solicitor (Salzmann Hughes, PC)
Jason Cohen, Assistant Borough Manager
Mike Bock, Police Sergeant
Dave Martin, Fire Chief

Mr. Stains noted that the purpose of the meeting was to receive input from the public on a draft copy of a proposed ordinance regarding inspections for residential rental units located within the Borough.

In 2009, Waynesboro Borough Council tasked a group of interested citizens to develop the framework for a rental inspection program. The group met many times over the next year or so, carefully developing a document which was put in ordinance form for the aforementioned purpose; and Mr. Stains thanked them for their efforts. Representatives of Borough Council, the Borough Solicitor, staff, and representatives of the committee have met over the last year and a half to review and modify the ordinance. In July, Borough Council directed the Borough Manager to hold a public input session for the purpose of reviewing the proposed ordinance. The document has been on public display at the Library and Borough Hall, and was posted on the Borough's website.

Mr. Stains described the procedure for the meeting. Members of the public who were interested in giving input would be given five (5) minutes to present their opinions to Borough Council. The Chair reserves the right to extend an individual's time as needed, however he recommended that anyone presenting information present it in a concise and direct manner. Individuals making a claim of fact, such as property values going up or down or any other quantifiable piece of data, were asked to submit to Council the basis on which that assertion was made. He noted that Council will not comment, nor will they engage in discussion regarding pros and cons of the proposed ordinance; and the purpose is to receive the public's opinion in this matter. Council will then take the comments into consideration and decide whether to amend or alter the proposed ordinance, or whether to proceed or stop the process.

Members of the public presenting statements were reminded that there are two (2) documents involved in the development of the proposed ordinance. The first document is the Property Maintenance Code, which is in effect for the entire Commonwealth of PA (not just the Borough of Waynesboro). Regulations in the proposed ordinance were based upon the Property Maintenance Code. The second document in this process is the ordinance itself. The ordinance was designed to provide a structure under which the provisions of the Property Maintenance Code could be applied to rental units. Council assumes that any individual commenting has read the proposed ordinance.

Individuals wishing to give comments were asked to come to the lectern and state their name and address (if they are representing an organization, they were asked to state the name of such). They were also requested to sign the attendance sheet at the lectern for the written record.

Lloyd Hamberger, Borough Manager, reiterated that the terms and conditions within this proposed Rental Inspection Ordinance already exist in the various forms of the Property Maintenance Code; and this ordinance is essentially the methodology by which those will be implemented. Solicitor Wiser was asked to review concerns regarding “grandfathering” of older structures.

Sam Wiser, Borough Solicitor, affirmed that the International Property Maintenance Code (IPMC) is currently in effect in the Borough of Waynesboro and the ordinance was passed many years ago with the initial IPMC and recently updated to the 2012 version of the IPMC. The ordinance that is proposed and open for discussion at this meeting is simply a procedure for enforcing those requirements (and how the terms of the IPMC will be implemented). As far as “grandfathering” structures, the IPMC contains minimal room size requirements and items of that nature; and an existing structure will not have to be altered structurally to meet those type of requirements. However, there may be smaller safety items that must be complied with (such as smoke detectors, etc.)

President Stains then opened the floor to public input.

Richard Durham, Kearneysville, WV - Mr. Durham noted that he forwarded a letter to Mr. Hamberger, which was also published recently in *The Record Herald*. He feels that the ordinance is unnecessary, expensive and not in the interest of landlords or their tenants. He stated that the Borough will most likely need to hire individuals with engineering backgrounds and skill in dealing with the public (at an annual salary of \$50,000-\$60,000) to conduct the required inspections; not to mention additional costs if a contractor is engaged. These additional charges would be passed on to the landlord ... and then on to the tenants. Mr. Durham stated his opinion that this could affect market values in the community, particularly when a person loses the value of a rental apartment or property. Additionally, investors are hesitant to commit in environments with too many regulations and fees. He also feels that tenants are entitled to privacy and quiet enjoyment of their property, as are the landlords. Mr. Durham, using a visual analogy, described a landlord’s \$100,000 duplex; whereby the Borough has either a nickel (or substantially less interest) in that property because it is not theirs. Nevertheless, the Borough has the right to take substantial amounts of money for taxes and various existing inspections ... all of which are burdensome to the landlords. He stated that he has driven around the community and is not aware of a lot of substandard properties in Waynesboro. He added that the properties he owns were inspected by qualified contractors when he purchased them, and he is currently doing work on at least one of the houses. Mr. Durham asked that the Borough stop consideration of this ordinance, as he feels it is inappropriate and very expensive to all parties involved.

Patrick Fleagle, 109 Ridge Avenue - Mr. Fleagle noted that he has lived in the Borough of Waynesboro all of his 61 years; and presently lives on Ridge Avenue, where there are a lot of rental units. Because they have made an investment in their home in that neighborhood, they want to ensure that the other properties are adequately maintained. Mr. Fleagle noted that he would also like to present comments on behalf of Mainstreet Waynesboro, but noted that this ordinance would essentially affect the entire community. Many times over the last few years, Borough Council has heard that the IPMC (by itself) is ineffective; and the Borough’s Code Enforcement Officer is powerless in most situations because specific conditions must be met in order for a property to be inspected. Mr. Fleagle noted that MSW, in conjunction with WIDC, has recently purchased two (2) downtown properties for demolition, as they have simply gone past their usefulness. He suggested, however, that if there had been a Rental Property Inspection Program in place, those buildings might have been saved. He added that if a code like this is not passed, you will continue to see a deterioration in properties (not only in the downtown, but over the entire Borough), because the IPMC has “no teeth”. Mr. Fleagle also commented that he has worked with many realtors to find reliable

people to invest in the community; and many landlords maintain and/or upgrade their properties without prompting. He pointed out that one of the positive features of this ordinance is that rental properties would be required to have a manager for those property owners who don't live nearby. Mr. Fleagle closed by stating that MSW is in support of this ordinance because, without it, the Borough is powerless to enforce the IPMC.

Patrick Burns, presently of Washington Township (formerly of Waynesboro) - Mr. Burns noted that he served on the Rental Inspection Committee, a group of dedicated individuals who want to make a difference in the community. His personal experience as a tenant gave him perspective into the issues that many renters deal with. He thanked the Borough for their efforts in this regard; as the ordinance deals with not only landlord/tenant issues, but safety as well. Mr. Burns noted that many hours were put forth to develop this ordinance. He is hopeful that it will pass, and feels confident that it will be for the betterment of the community.

Jane Robinson, Waynesboro Apartments - Ms. Robinson noted that Waynesboro Apartments operates government-subsidized low-income housing. She reviewed the various inspections they currently conduct, and noted their concern regarding any fees that will be incurred for these inspections. (She asked if there might be a reduced fee or waiver of fees for government-subsidized housing facilities.) Ms. Robinson noted that they "stay on top" of maintenance and extermination issues; and stated that additional fees/expenses will impact their budget. She asked about the qualifications of the individual(s) who will be conducting the inspections; and added that adequate notice will need to be given to their tenants when the inspections are to be conducted.

Betty Martin, 124 E. Fifth Street - Ms. Martin noted that she and her husband own a "Mom and Pop business" with only four (4) units. She asked if there are any exceptions to the ordinance, or will it apply to *all* rental units? She is concerned about the additional expenses to the Borough, because those expenses will be passed on to the taxpayers. She also doesn't want to pass the additional expense of the inspections on to her tenants, because "everyone is hurting" in this economy. Ms. Martin also asked how the Borough will enforce this new code, if they can't enforce the existing PA code. She stated she is very much against the ordinance.

Darwyn Benedict, representing Pen-Mar Regional Association of REALTORS - Mr. Benedict noted they oppose the ordinance for various reasons, which were provided in written format for the record. He briefly explained those reasons are as follows –

- **Invasion of Private Property Rights:** The ordinance concentrates too much power in the hands of the Code Enforcement Officer(s), and would permit the Borough to inspect an occupied rental unit at any time based on any complaint and "probable cause" or "cause to believe" a violation exists – outside of the regular inspections.
- **Cost:** The ordinance will raise costs for landlords, and ultimately for tenants,. Beyond the registration fee and inspection fees, each individual violation can be assessed up to \$1,000, with a minimum of \$200. This is a per-day fee, regardless of the magnitude of the offense. There are also transaction costs such as mailings, notifications, and repeat visits.
- **Property Manager Requirement:** The draft ordinance requires any property owner outside of a 15 mile radius to hire a manager, which is an unreasonable burden.
- **Lack of Flexibility for Families:** The ordinance does not provide exceptions for renting to family members, nor does it exempt rentals of rooms in private homes or one side of a duplex when the owner lives in the other side.

- **Code Issues:** The draft ordinance cites the 2003 International Property Maintenance Code, and references building code requirements as applying to rental buildings. This is inconsistent, costly, and confusing because most Waynesboro rentals are older properties that were built prior to the building code being implemented.

As the Borough uses the 2003 PMC, it is unnecessary to mention any specific code requirements in this ordinance. The ordinance should be separate from the PMC and not restate codes.

- **Investment Consequences:** They do feel that the additional cost of a restrictive regulatory requirement will affect property values.
- **Alternative Recommendations:** They suggested the implementation of a “Livability Code”, which would govern all properties in the Borough (not just rental properties).

Pat Crouse, 2735 Leitersburg Road - Ms. Crouse noted that she was also a member of the Rental Inspection Committee. She has given this ordinance a lot of thought and talked with many people. She read the following statement:

“I have reviewed the 2012 International Property Maintenance Codes, as well as the proposed Waynesboro Residential Rental Unit Ordinance. Let’s just suppose for a moment this were to be proposed to you (the property maintenance codes technically do apply to all, owner-occupied as well as rentals). I’m sure you would be more than a little anxious. Many property owners (with rentals) here tonight feel the same way. People are creatures of habit, not change. Owners of rental properties, as well as their tenants, have seen what rental inspections have done to neighboring towns.

1) Increased rent – Waynesboro has few top paying jobs. Landlords cannot afford to raise the rents and lose tenants. (Rents won’t increase if everyone has a perfect house.) Sadly, that’s not the case.

2) Many property owners have negative equity in their properties. If hit with too many repairs at one time, the possibilities are that they will walk away, therefore incurring more vacancies.

3) According to data from the National Association of Realtors and National Association of Real Estate Investors, many towns with rental inspections are experiencing even greater declines in real estate values, as investors have a tendency to avoid them.

I have listed only a few of the negative aspects, and I am sure none of us here tonight want to see this occur. It would hurt us and our town. However, none of us want to see neglected properties, or shirk the responsibility of having a clean, safe town. This could also create the negative aspects that I have listed above.

As I have stated before, we are all creatures of habit, not change, and even being on the committee and understanding most of this, I am afraid of the unknown (as well as the “what if’s”). Most of us at this point are concerned for fire safety. May I suggest that we start out small and work into this? Register all rental properties. Possibly begin with fire safety (i.e. smoke alarms, etc.) and give owners the opportunity to move on to other items that are important, but not life threatening or hazardous to their neighbor’s property.”

Bob Correll - Mr. Correll noted that, four (4) years ago, he sat in attendance at the first public hearing for the first proposed Rental Inspection Ordinance and was “mad as hell”. He noted that he stood at the podium and was determined at the end of that night to do everything in his power to defeat it. At the end of that night, Councilman Newcomer requested he be part of a committee to study the proposed ordinance a little more. He agreed, because he wanted to defeat it at all costs.

He recounted that in January of 2009, the committee met for the first time. He publicly acknowledged the committee members – Patrick Burns, Pat Crouse, Doyle Helfrick, Dave Martin, Harold Mumma, Tamar Osterman (Government Affairs Director for the Pen-Mar Regional Realtors Association), Dan Sheffler and David Unger. They met every other Wednesday, beginning in January of 2009, for the better part of a year and a half. They began by tearing apart that proposed ordinance, going over it line-by-line and then doing it again. Some of the members brought interesting and unique perspectives to the process (Dave Martin as Fire Chief, Dan Sheffler as the Code Enforcement Officer and Tamar Osterman brought a wealth of experience from the community of Hagerstown). They began to hear stories and see a picture that they hadn’t fully appreciated before. They saw the inside of buildings through the Fire Chief’s eyes and the Code Enforcement Officer’s eyes. They heard stories about furnaces that don’t heat, plumbing that doesn’t work, electrical wiring hazards, spiders nests, etc.

In January of 2010, after meeting for the better part of a year, they began to set about drafting the first draft. After many weeks of reviewing the document, they finally submitted this proposal to Borough Council in April of 2010. Mr. Correll added that a lot of thought went into the ordinance. They heard from speakers (District Magistrate Larry Pentz and Building Inspector Mike Cermak Sr.) and attended a webinar hosted by PSAB. He added that the end product has been reviewed by the PSAB, who gave it a “thumbs-up”.

Mr. Correll stated the committee realized that we live in a community which is changing (but not necessarily changing for the good); and they tried to develop a document which provided a process they hope will bring positive change to the community.

Craig Mahrle, 84 W. Main Street - Mr. Mahrle noted he understands that much time and effort was put into the proposed ordinance by the committee members; and sometimes there’s a feeling that, due to the time investment, it has to be seen all the way through. He was surprised by some of the comments voiced, because he has heard for the past several years that Waynesboro’s residential housing stock is improving (and now he is hearing that it is getting worse and worse). Mr. Mahrle stated that, more often than not, if a town considers an inspection program, it is a sign that they have dilapidated housing stock. He deals with many tenants, and doesn’t feel that is the case in Waynesboro. He feels it is misleading to say there is no mechanism to enforce the IPMC, because a tenant can contact the local authority. He also noted it gives a negative impression of a town when its leadership feels that an inspection program is necessary in order to maintain certain quality standards.

Hearing no further comments from the public, Council President Stains asked for comments from Council and the staff.

Councilman Driscoll thanked the public for their attendance and opinions.

Councilman Cermak also thanked those in attendance. He stated he is unsure where the concept of a Rental Inspection Ordinance is going; but as a Building Inspector, he sees a lot of things that “are not good”. He stated that the ordinance is not “aimed at the landlords” – it is simply to ensure general better (safe) living standards for Borough residents.

Sergeant Mike Bock informed Council members that the Police Department’s new cruiser was put in-service the previous day.

Fire Chief Martin noted that he would be glad to share information with Council regarding the conditions of various properties in town. He added that, in his 21 years as a firefighter in the Borough, he has seen/entered many many homes with non-working smoke detectors, faulty wiring, entrances/exits blocked by faulty construction and poor housekeeping; and he would welcome a program to ensure the safety of the residents.

Councilman Newcomer offered that members of the public who wish to discuss this matter further may feel free to contact him. He explained that this process began when the Code Enforcement Officer received complaints from tenants regarding the conditions of their homes; and after prompting the landlords to repair the problem, the tenants were evicted. This happened on many occasions, and Council felt the need to do something about it.

Mayor Starliper noted that it will take quite a while to fully review the information contained in this voluminous document. Councilman Newcomer pointed out a typographical error on page 8 of the document; and Mr. Hamberger noted it is only in draft form.

President Stains thanked the individuals who attended the meeting and provided input. He noted his appreciation to the people who personally contacted him over the last several days ... adding it is good to get input from the public (no matter what the topic is). Mr. Stains also thanked the individuals who assisted in resolving an issue on W. North Street which was discussed at the last Council meeting.

Having no further business to discuss, the meeting adjourned at 8:16 p.m. on a Greenawalt/Cermak motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant