

The Town Council of the Town of Nashville held a Special Called Meeting on Monday, December 9, 2019 at 3:00 PM in Town Council Chambers. Members Present: Mayor Brenda Brown, Council Member Louise Hinton, Council Member Lynne Hobbs, and Council Member Larry Taylor. Absent: Mayor Pro Tem Kate Burns. Staff Present: Randy Lansing – Town Manager, Lou Bunch – Town Clerk and Human Resources Director, Julie Spriggs – Planning and Development Director, Tina Price – Planning Technician, Chris Joyner – Fire Chief, Anthony Puckett – Police Chief, Daniel Strutton – Police Corporal, India Shearin – Police Officer. Others Present: Trey Barnette, Town Attorney.

1. Mayor Brown called the meeting to order at 3:00 PM and welcomed those in attendance.

This Special Called Meeting is for the purpose of a Public Hearing on a derelict vehicle, and is considered an evidentiary hearing. A verbatim transcript of the sworn testimony is included in these minutes.

2. Mayor Brown called the Public Hearing to order to determine if a condition that exists is dangerous or prejudicial to the public health and public safety. At this time, Mayor Brown turned the meeting over to staff.

Mr. Barnette administered the following oath to Julie Spriggs: “Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?”

Ms. Spriggs replied, “I do.”

Ms. Spriggs stated, “Good afternoon. My name is Julie Spriggs, Planning Director, and my address is 499 S. Barnes Street, Nashville. The first order of business I would like to do is enter the packet with the agenda and all exhibits into the record for the hearing. Then I would like to go over the case.”

The packet is hereby attached to the minutes as Exhibit A.

Ms. Spriggs said, “What we have before you is a derelict vehicle on 831 Brake Street. As you go through the packet, you will see a green tab. This is the start of the case information. As you see, we have been working with this vehicle for quite some time. It goes back to July of 2019. We sent letters. They are in your packet. We sent letters again on September 10th, November 18th, and December 2nd. Some of the letters are saying the vehicle is derelict and needs to be either brought up to code or moved. And then the last two letters are stating that an abatement hearing would be scheduled for failure to remedy the situation. Along in your packet on pages 20 and 19, you see pictures of the vehicle in question. There is a photo taken on November 20, 2019 and a photo taken from Google Earth showing the same car in the same exact location from 2012. The last page, 21, shows that the vehicle is registered to Brenda Lassiter, that is actually Brenda Gail Rogers. It is Brenda Lassiter now. The last time the car was registered was valid in 11/15/2010, so it has not been a valid registration on the car for nine years. And for our definition purpose we use the Code of Ordinances in Chapter 36 to talk about a derelict vehicle and the process for removal of a derelict vehicle if it has not been removed by the owner. What I would like to call your attention to is the *vehicle standards for prejudicial to the public health or safety* on page 8, Section 36-198. And what we have determined at staff level based on this section of the code, because the car has not moved in over nine years, closer more to probably 18 or so, that it has been listed as a breeding ground and a harbor for mosquitoes, other insects, snakes, rats or pests, that there has been a growth of weeds and noxious vegetation around the car over time. It is a collection point for pools or ponds of water since the car does not move. It is a point of concentration for gasoline, oil, and other explosive materials that are still left either in the car or around the car. There is not a location or the location of the car is in danger of falling or turning over unless it continues to go into a derelict state. If this state is allowed to continue, the car will continue to deteriorate, rust and rot in place, and then you will have a safety violation where it could fall or turn over. And there is a source of entrapment or confinement based on the fact that it has not been moved. If a child goes near it, since the car is not in working order, it cannot be moved easily to get to a child in case they are trapped inside or underneath and if they crawl underneath, then they can't get back out. For the betterment of society, we do declare it as a danger of public health and safety for other reasons such as property values of neighboring properties and aesthetic reasons as well. For this case we are allowed to state aesthetic reasons for property values as part of this case. So, bringing that to your attention in the code and the fact that it has been standing for quite some time, we have sent the letters starting in July and we have had some response. I will let you ask Tina for any direct responses. Tina has been handling the calls and the letters so if you would like to have something direct to the case, but as far as the specifics of the case and the legalities of the case, this is where we are. Because the car has not been moved, we are now

having the abatement hearing. This is the first abatement hearing the Council has heard. This is the proper procedure for going on private property and towing cars. What we need from the Council is for you to determine today whether or not staff has acted accordingly and if you do believe that the car is derelict and if you do believe that it is of prejudicial concern for the health and safety of the community then an order needs to be issued for the car to be removed from the property. The order can come from you to direct staff to remove the car immediately or the order can be for you to direct the owner within a certain time frame to remove the car and if that is failed – the owner continues to fail to do that – then staff will be able to remove it without having to come back for a second hearing. Once those orders have been absolved, if the owner's car has been towed and the owner wants the car back, they can come to the place where we store the car and they can get the car back or if not, the car becomes our property and we can sell it for scrap. Any money that we take from the car sale, if it is for scrap, would go back to the owner's lien for the cost of the towing. And then any money left on the account for the cost of the towing would be a lien on the property and would go to the property tax bill and be put on the customer to comply with throughout time. Until that lien is taken care of, it will be tied to the property itself. So in the future, land owners would have that property tied to it. Is there any questions for me on the legalities?"

Council Member Taylor asked, "Do I have to be sworn too, Trey?"

Mr. Barnette replied, "No, you do not."

Council Member Taylor said, "My question to you is – I have several – you did state that the owner of this property has been at that particular address for the longevity of this property, right?"

Ms. Spriggs replied, "Yes."

Council Member Taylor continued, "This vehicle is in a backyard?"

Ms. Spriggs replied, "Side yard."

Council Member Taylor said, "So a side yard?"

Ms. Spriggs stated, "It is visible from the street."

Council Member Taylor said, "That was my next question. It is visible from the street?"

Ms. Spriggs replied, "It is."

Council Member Taylor said, "Okay. But it has been there – we've been working on it about 8, 9 years."

Ms. Spriggs said, "Yes."

Council Member Taylor said, "But it has been there probably longer?"

Ms. Spriggs said, "Yes."

Council Member Taylor said, "Well, my most serious concern is that if it is sitting there and a child can get into it and get locked in that vehicle, that is my concern. And I would not want that to happen. Have a child – but if it has been there that long, sadly to say, if it was going to happen it probably would have happened already by now."

Ms. Spriggs said, "It may, but it may not and so you still leave yourself open to that happening if it is not remedied."

Council Member Taylor said, "That is my major concern. What has – I may need to direct this to Tina – Tina, what has been the response from the owner about their concerns for this vehicle? What kind of answers are they giving you?"

Mr. Barnette administered the following oath to Tina Price: "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Ms. Price replied, "I do."

Mr. Lansing asked, "Tina, could you come to the podium so your testimony can be recorded?"

Ms. Price approached the podium and stated, "Over the years, I have sent letter after letter with no response. And then when Randy came to me with it, we kind of went hard at it and she did answer. She didn't answer any of my letters at the beginning. She answered Anthony (Puckett) when Anthony went to deliver one of the letters she did -- he spoke to her mom -- and from that point on she has been in contact. We have sent registered mail to her. She signed it and sent it back, so she is getting the letters. She also, I did call her after Anthony had originally spoken with her mom and she said she would move the vehicle that weekend. She would have help from her brother. It is still sitting there. We have given her -- it's not like this has just happened; this has been on the books for quite some time -- well over ten years. So we are here at this point."

Council Member Taylor said, "Chief Puckett?"

Mr. Barnette administered the following oath to Anthony Puckett: "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Mr. Puckett replied, "Yes, sir."

Council Member Taylor asked, "Chief Puckett, when you went out to deliver the letter to the lady, from your standpoint as being a Police Officer, in her response -- did her response seem genuine that she was going to get it moved or she was just giving you a line?"

Chief Puckett said, "She did seem genuine at that point. When I went out to deliver the letter, nobody was home. I knocked on the door several different times. I finally made contact with the neighbor, which was her mother. Her mother stays right beside her. When I spoke with the mother, I was able to obtain a phone number for Mrs. Lassiter. I called Mrs. Lassiter and explained to her that several complaints had come in to the Town about her vehicle. She did explain to me that this was her first vehicle, had sentimental value, and I further, after speaking with Ms. Price, confirmed that if she did move the vehicle there would not be any fines by the Town and she had until a certain date, which Ms. Price gave her a few weeks to move the vehicle and she assured me and Ms. Price as well that she was going to have the vehicle removed by her brother. I followed up with her maybe a week later and ever since that point she has been in constant contact with Ms. Price."

Council Member Taylor said, "That's all I have, Mayor."

Mayor Brown said, "Thank you."

Council Member Hinton said, "I have a question. Have there been numerous complaints from neighbors?"

Ms. Spriggs said, "I am going to defer to Tina."

Ms. Price replied, "Yes, ma'am. Over the years, you know, it comes and goes."

Council Member Hinton said, "But it has taken us this long to bring it to a head?"

Ms. Price responded, "Yes, ma'am. Most people when we send the letters to them, they really -- they'll either call, contact me, and ask for a little bit more time to get rid of vehicle, what have you. And then, you know, they do what they are supposed to do. There's just a couple people that just won't, for sentimental values, for whatever, they won't move them... We've worked on one recently in an area and over seventeen vehicles were removed. So people do what they are supposed to do for the most part. It's just some of them don't."

Council Member Hobbs asked, "Tina, do you think it is a situation where the homeowner or the vehicle owner can't afford to have it removed and that could be influencing them?"

Ms. Price replied, "In some cases this has happened, they can't afford it but they manage to do it. But in this case I think it is more sentimental value. Like Anthony said, she told him that it was her very first car and she really was attached to it. The tires are flat, but a child could still go under it. As your pictures show, it's in awful condition. I don't think -- it would take a lot of money to get it running again and I am not an expert in that area."

Ms. Spriggs asked, "Can we call Chief Joyner up to speak to the public safety portion of this, do you mind?"

Council Member Hobbs stated, "I would like to hear what Chief wants to say."

Mayor Brown said, "That's fine."

Mr. Barnette administered the following oath to Chris Joyner: "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Mr. Joyner replied, "I do."

Chief Joyner stated, "The safety concern that I see with it -- if you look at that picture of that vehicle, it is not sitting too far off the property line. Once a vehicle starts sitting there, it starts to deteriorate, which causes it to dry rot. We have just experienced here in the last four months ago, a squirrel got under a fire truck and ate the wires up so the fire truck caught on fire. So I can only imagine what rodents could be in this vehicle, but let's say that that power pole to the immediate right hand corner panel of that car was to drop a power line on that car. Because of that car being in the state it is in, it would be an extremely quick fire hazard which would cause a lot of radiant heat and it would do damage to her house and the adjoining houses right beside it with that fence being there, plus it would come off of that house. You have a very large tree that at the right time of the year if there was a fire there, it would make it burn even better too. You would have a large fire that would do a lot of damage in that area. But, yes, I do believe there are probably rodents that have done damage to that car and if a child was to get in there during the summer just to play and hide, look at the temperature that would be in that car too and the issues that are already there. So I do see a safety concern with that vehicle being on this property and in the vicinity of those houses."

Council Member Hobbs said, "Chief, can I ask a question? I understand what you are saying about those issues, but are there additional issues? I am thinking about is there a battery that was left in the car?"

Chief Joyner replied, "Yes. I am assuming there is a battery. You've got gas in the tank. You've got oils that are there. All those things. But once the car -- and you've got to think about it -- a motor, once it is running wires break down. If it has been sitting there, it has been breaking down. So if someone was to go and put a brand new battery in that car right now, it would probably light off because of the safety issues there. People just don't think about it, but they are probably corroded and will start a fire there and then we would have a problem because all of the interior has already started breaking down from where it is not being used, just decay."

Mayor Brown said, "Thank you. Any questions?"

Council Member Taylor said, "I have to concur with both Chiefs. The problem is a hazard based on what he just said about corroding and if you try to start it, it would probably ignite very easy. But I do have a concern when you get in to the question that mentioned sentimental value to families and stuff. Have we -- do you think we could do or make any headway with this person if we fine them? Can we legally fine them?"

Mr. Barnette said, "Yes you can."

Mr. Lansing added, "\$500 a day."

Ms. Spriggs said, "\$50. We have a civil penalty that an officer from the Town can go once a day and issue a civil penalty to the car owner at the house and the fines will continue to rack up until they either move the car, the situation is remedied by the Town, and if those fines go unpaid they turn into another civil dispute between the citizen and the Town."

Council Member Taylor asked, "Does the fine -- is that a separate procedure? Or would the fine, if they don't pay it, be tacked on to them as taxes, on their taxes?"

Ms. Spriggs stated, "I believe our civil penalties can be tacked on to a lien. I believe they can be."

Council Member Taylor said, "What I would -- and this is just me -- what I would like to see us do is to go ahead and send her a letter saying that you have your final ten days, five days, to move this vehicle as we have requested in the past. On so and so date, if it is not moved, you will start to be fined \$50 a

day...this \$50 a day will only go – if you fine them \$50 a day you can't thirty days down the road snatch off to something else, can you?"

Ms. Spriggs stated, "Unfortunately, we are past that point at this time."

Council Member Taylor asked, "You've already sent them a letter?"

Ms. Spriggs replied, "We have already been working with her. This is for a failure to remedy the violation. We are now at the point where you issue an order for her to remove the car or we do or you vote in her favor and say that it is not a public safety issue. Those are the choices before you today – is that you can say it is not a public health safety concern and the case goes away, you can order staff to remove it immediately, or you can order her to remove it within a certain timeframe and if she does not, staff removes it and those are the options that are on the table today."

Council Member Taylor asked, "So the fine is not an option now?"

Ms. Spriggs replied, "Not anymore, no."

Council Member Taylor said, "Not anymore?"

Ms. Spriggs said, "We have passed that point."

Council Member Hinton stated, "This is not fair to her neighbors. At some point we have to look at the people that she lives around. We live in a town and we have to be cognizant of our neighbors. This has been going on for far too long."

Ms. Spriggs said, "I agree."

Council Member Hinton said, "I say that we have it removed and send her a bill. She knew about this meeting, right?"

Ms. Spriggs said, "She did. Officer Salazar, Miguel, hand delivered the final notice to her on December 3rd at 8:45 pm."

Mayor Brown asked, "So is that the desire of the Council?"

Council Member Taylor said, "Mrs. Hinton, her suggestion – because she did know about the situation. She is not here to speak for herself. So, I have to agree with Mrs. Hinton."

Council Member Hinton said, "She has had many opportunities."

Ms. Spriggs agreed, "She has. And so the decision before you is based on the evidence that staff has submitted because she is not here, she has been not able to submit any counterevidence to what staff has submitted. So your findings of fact will be based on the evidence submitted at this hearing. So on the evidence based on the hearing, if you feel that it is a public safety or public health concern, then you can motion to have order remedied."

Mayor Brown asked, "Do I hear a motion?"

Council Member Hinton said, "So moved."

Mayor Brown asked, "Second?"

Council Member Taylor replied, "Second."

Mayor Brown asked, "All in favor?"

Council Member Hobbs said, "I would ask a question before the vote. One other question, I just want to be sure I am clear on this, Julie, that we have the option of either asking for a period of time, a week or whatever it is, or the Town will do it, or the Town can go forth right now and remove it."

Ms. Spriggs replied, "Correct."

Council Member Hobbs said, "I guess then the question related to the motion might be do we want to give her some period of time or to just go forward and have the car removed?"

Mayor Brown said, "We've given her..."

Council Member Hinton said, "My understanding is we have given her a period of time. A long period of time."

Mr. Lansing said, "So, your motion, just to be clear, is to remedy the situation?"

Council Member Hinton said, "Exactly."

Council Member Hobbs said, "Immediately. Okay."

Mayor Brown asked, "Everybody in favor of that?"

Council Member Hobbs replied, "Are we taking the vote now? Yes."

Mayor Brown asked, "All in favor?"

Council Members Hobbs, Hinton and Taylor all replied, "Yes."

Mayor Brown said, "The motion passes, so move forward. Thank you for your effort."

The motion was unanimously approved (3-0).

Ms. Spriggs said, "Our next step as staff, we have 72 hours to deliver a written notice to her telling her the order and then we will be able to go on the property, have the car towed, and we will take care of it from there."

Council Member Hinton asked, "How will we handle that? Through a tow truck company?"

Ms. Spriggs replied, "We will have a tow company come in. It will have to be on a flatbed since none of the tires work and we don't know what else we are going to find once we move the car. So we'll have a tow truck come in, remove the car. We'll impound it and then after the set time for the ordinance, if she does not come to retrieve it and get it road worthy, then we will dispose of the car."

Mr. Lansing added, "Per our ordinances."

Council Member Taylor asked, "Do we give her a date when a wrecker will be showing up?"

Ms. Spriggs said, "Yes, we will."

Mr. Lansing added, "Date and time."

Council Member Hinton asked, "Do you have an idea about cost to the Town?"

Ms. Spriggs said, "I do not. I do not know because it is not a normal tow."

Council Member Hinton asked, "Chief?"

Chief Puckett replied, "Wayne Taylor's is approximately \$125."

Council Member Hinton said, "Well, it should be at her expense, right?"

Ms. Spriggs said, "It is. It will go on a lien on her property and it will be part of her tax bill."

Mr. Lansing said, "Of course, she may pay it."

Ms. Spriggs said, "She may."

Council Member Taylor said, "Council, I just want to note that this is the first one that I know of us doing..."

Council Member Hinton said, "In 14 years."

Council Member Taylor continued, "In quite a while. Since I have been on the Board. This is the first one we have done and I am quite sure that this is not the only vehicle in somebody's yard that has been sitting there for quite a while. So are we prepared and ready to open up this door and start enforcing this throughout the town?"

Mayor Brown said, "We are going to have to be consistent."

Council Member Taylor said, "We have to be consistent with it."

Council Member Hinton said, "I think it has been enforced before, it's just that it has been somebody would report a car that was not licensed sitting in a driveway and they took care of it."

Ms. Spriggs said, "And we have cases like that... we do have a lot of open code violation cases and a lot of times they are taken care of by the citizens before we get to this point."

Council Member Hinton, referring to the packet, asked "Is there any chance we could get this prior to the meeting itself, because I would love to read through it and read all of the ordinances."

Ms. Spriggs said, "Unfortunately, no. The way that this hearing is run, it is quasi-judicial. It is considered a court case. You cannot receive the exhibits prior to the meeting itself. So you have to examine all of the evidence on record at the meeting."

Council Member Hinton said, "You don't have much time to read or study it."

Ms. Spriggs replied, "It is not. That is the unfortunate case of a quasi-judicial proceeding, but that is how it needs to be done according to the law."

Mr. Lansing said, "But the ordinances are there, Louise, if you wanted to..."

Council Member Taylor said, "Because I brought it, Louise, it is in the ordinance book."

Council Member Hinton said, "I trust that it is in the ordinance book. It's just that I would like to be able peruse it before we get into the weeds."

Mayor Brown asked, "Is there any further business?"

Council Member Hinton said, "I am sad that it has to happen this way, but when you have given the person the opportunity many, many times for years, then at some point you draw the line."

Council Member Taylor said, "I am too."


Mayor Brown commented, "That is why we have rules and laws to keep the town, you know?"

Council Member Taylor said, "We've got to start somewhere."

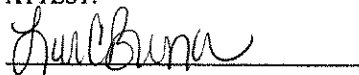
3. There being no further business, Mayor Brown called for a motion to adjourn.

Council Member Hinton made the motion, seconded by Council Member Taylor. There being no discussion, Mayor Brown called for a vote. The motion was unanimously approved (3-0).

Mayor Brown declared the meeting adjourned at 3:26 PM.


Brenda Brown, Mayor

ATTEST:





Lou C. Bunch, Town Clerk

Appendix: Exhibit A (on the pages following)