

AGENDA

CITY OF DICKINSON, TEXAS
BUILDING STANDARDS COMMISSION
REGULAR MEETING

Wednesday, August 11, 2010

6:30 p.m.

NOTICE is hereby given of a regular meeting of the Building Standards Commission of the City of Dickinson, Texas, to be held **WEDNESDAY, August 11, 2010, at 6:30 p.m.**, in the Council Chambers at City Hall, 4403 Hwy 3, for the purpose of considering the following:

- ITEM 1) **CALL TO ORDER**
Roll Call of Members
Invocation
Pledge of Allegiance
- ITEM 2) **CONSIDERATION AND POSSIBLE ACTION CONCERNING:** Approval of Minutes for the July 14, 2010, Regular Meeting.

ITEM 3) **PUBLIC COMMENT**

NEW BUSINESS

- ITEM 4) **Consideration and Possible Action Concerning:**
- A. Revisions to Adopted Rules of Procedure Regarding Regular Meeting Times
 - B. Clarification of Appeals Process
 - C. Other Procedural Changes

ITEM 5) **FUTURE AGENDA ITEMS**

ITEM 6) **ADJOURNMENT**

CERTIFICATION

I hereby certify that a copy of this notice of a Regular Meeting of the Building Standards Commission for **August 11, 2010**, was posted at City Hall, 4403 Hwy 3, Dickinson, Texas, on August 6, 2010, prior to 5:00 p.m.



Carol L. McLemore, City Secretary



MINUTES
CITY OF DICKINSON
BUILDING STANDARDS COMMISSION
Regular Meeting

July 14, 2010

A Regular Meeting of the Building Standards Commission of the City of Dickinson, Texas was held on **July 14, 2010 at 6:30 p.m.** at City Hall, 4403 Hwy 3, for the purpose of considering the following items:

ITEM 1) CALL TO ORDER

Lee Gana called the meeting to order at 6:30 p.m.

Board members present were Lee Gana, Ira Alexander, James Ayers, Louis Gill, Larry Kindel and Kirk Harstad. City staff present was City Administrator Julie Johnston, City Attorney Loren Smith, Chief Building Official Kevin Byal, Code Enforcement Officer Cynthia Smith and Community Development Assistant Jennifer Fisk. Also in attendance were Bill Bonham and Bill Miller from the Planning and Zoning Commission. Ira Alexander gave the Invocation and Lee Gana led the Pledge of Allegiance.

ITEM 2) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Approval of Minutes for the June 9, 2010, Regular Meeting.

Mr. Ayers made the motion to accept the minutes for the June 9, 2010 meeting and Ira Alexander seconded. **MOTION PASSED UNANIMOUSLY.**

ITEM 3) PUBLIC COMMENT: No one in attendance.

NEW BUSINESS

ITEM 4) COMMISSION MEMBER TRAINING: Julie Johnston and Loren Smith showed an Open Records training video which was followed by a discussion of Building Standards Board responsibilities.

ITEM 5) FUTURE AGENDA ITEMS: Discuss changing the meeting time.

ITEM 6) ADJOURNMENT:

Motion made by Larry Kindel to adjourn the meeting. James Ayers seconded the motion. **MOTION PASSED UNANIMOUSLY.**

Lee Gana adjourned the meeting at 9:02 p.m.

Chairman

**CITY OF DICKINSON
BUILDING STANDARDS COMMISSION
RULES OF PROCEDURE**

I. ORGANIZATION AND OFFICERS

101. Officers

A Chairperson, a Vice-Chairperson, and a Secretary shall be elected at the first regular meeting of each calendar year, and at such other times as these offices become vacant, from among the Commission's regular members. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of the Chairperson and the Vice-Chairperson, the Commission shall elect an acting Chairperson.

102. Duties of Officers

A. The Chairperson, or in his absence, the Vice-Chairperson, or Acting Chairperson, as set forth in Section 101, shall preside at all meetings, shall decide all points of order and procedure, and may administer oaths. All correspondence from the Commission to the City Council shall be over the signature of the Chairperson.

B. The Secretary shall have the full care, custody and control of the minutes and other official records of the Commission. The Secretary shall also attend the correspondence of the Commission and shall cause to be given such notices as are required and in the manner prescribed by statutes, ordinances, these rules and the Commission.

C. An Executive Secretary, designated by and under the supervision of the Director of Community Services, shall perform such duties as are necessary to prepare accurate and complete minutes of the Commission's actions.

II. MEETINGS

201. Quorum

A quorum shall consist of three (3) members. No decision by the Commission shall be deemed rendered unless a majority of members are in attendance and voting, but by no less than a minimum of three (3) members concur.

202. Agenda

An agenda shall be prepared by the Executive Secretary for each meeting of the Commission. The agenda shall include appeals and other matters scheduled for consideration by the Commission.

203. Regular Meetings

Regular meetings shall be held on the second (2nd) Wednesday of each month at 6:30 p.m. in the City Council Chambers of Dickinson City Hall, unless otherwise determined by the Commission.

204. Special Meetings

Special meetings for any purpose may be held on the call of any member by the Executive Secretary giving written notice to all members in compliance with the Texas Open Meetings Act, as amended, or as may be scheduled by a majority of the Commission at any previous meeting.

205. Executive Sessions

The Commission may meet in a closed session to seek the advice of its attorney concerning pending cases or other matters that are exempt from public disclosure under Article X, Section 9 of the Texas State Bar Rules and as authorized by Section 551.071 of the Texas Government Code, as amended.

III. OFFICIAL RECORDS

301. Definition

The official records of the Commission shall include these Rules of Procedure, the minutes and/or transcripts of meetings, all evidence submitted by Code Compliance and the Building Official, and the owners, lienholders and mortgagees of property under consideration together with all findings, decisions and other official actions of the Commission and any evidence submitted by interested parties.

302. Recording of Vote

The minutes of the Commission proceedings, as recorded by the Executive Secretary, shall show the vote of each member or, if absent or failing to vote, shall indicate that fact.

303. Files - Retention

All matters coming before the Commission shall be filed in the Department of Community Development in accordance with that Department's general file system. Original papers of all requests, proposals and correspondence shall be retained for not less than three (3) years after the date of submittal. Thereafter, records of the Commission and other special matters deemed essential and appropriate for retention by the Executive Secretary shall be prepared and retained in accordance with the provisions of State Law and procedures adopted by the City of Dickinson.

304. Public Information

The official records, filed for Commission action in regular or special meetings, shall be on file in the Code Compliance Division and shall be open to public inspection during customary working hours.

IV. ACTIONS BY THE COMMISSION

401. Types of Action

The Commission shall act upon such matters as it is required or authorized to consider by Ordinance and/or State law.

402. Notice

A. Notice of any actions before the Commission affecting a specific property shall be provided to the property owner(s), all occupants, lienholder(s) and/or mortgagee(s) of the property, not less than twenty-one (21) days prior to the date of the hearing and provided in accordance with the Notice provisions contained in Section 5-05 of the City of Dickinson Code of Ordinances, as amended.

B. The Commission's Agenda shall be posted in compliance with the Texas Open Meetings Act, as amended.

403. Submission of Evidence

The Building Official, Code Compliance Officer, property owner(s), occupant(s), lienholder(s), and/or mortgagee(s) may submit evidence to the Secretary (for review by the Commission) at least five (5) days prior to the hearing or, such evidence may be presented at the hearing. All evidence becomes public information.

404. Withdrawal or Continuance of Request For Hearing

To withdraw a request for a hearing or to request that a scheduled hearing be continued, the Building Official, Code Compliance Officer, property owner(s), occupant(s), lienholder(s), and/or mortgagee(s) must file a written request with the Executive Secretary, subject to the following rules:

A. A request for withdrawal submitted within fourteen (14) calendar days following the request for a hearing shall be accepted by the Executive Secretary without the need for Commission approval.

B. All other requests for withdrawal are subject to Commission approval at its next regularly scheduled public meeting.

C. All requests for continuance will be at the discretion of the Commission.

405. Reconsideration

A. To reconsider a case:

1. One Commission member must present a motion to reconsider to the Executive Secretary within seventy-two (72) hours of the of the hearing on the subject case and request the case be scheduled for reconsideration at the next regularly scheduled meeting; OR
2. On the same day of the hearing, all persons who addressed the Commission at the first consideration must be present during the reconsideration; OR
3. City staff must present new and relevant information regarding a case to the Commission and request it be reconsidered at that meeting or the next regular meeting of the Commission; OR
4. A property owner may submit, in writing, an agreement to City Staff's recommendation for reconsideration.

B. A case may only be reconsidered one (1) time.

C. If the Commission declines to reconsider a case, the owner may appeal the decision to the City Council in accordance with the provisions of Section 5-05 of the City of Dickinson Code of Ordinances, as amended.

406. Amendments

A. A property owner, lien holder, and/or mortgagee may request an amendment to an order for an extension of time to comply with an order or decision of the Building Standards Commission; or for a reduction in the amount of fines assessed by an order or decision of the Building Standards Commission.

B. A request for an amendment must be presented in writing to the Executive Secretary of the Building Standards Commission within the time given to comply with the order.

C. A property owner, lien holder, and/or mortgagee may make a request to amend an order or decision only one (1) time.

D. If the Commission declines to amend the order or decision, the requesting party may appeal the decision to City Council in accordance with the provisions of Section 5-05 of the City of Dickinson Code of Ordinances, as amended.

V. HEARINGS AND DECISIONS GENERALLY

501. Public Hearings

Hearings on all matters on which a decision of the Commission is required by law shall be open to the public. The owner, occupant, lienholder and/or mortgagee may appear in his or her own behalf or may be represented by counsel or an agent with power of attorney.

502. Order of Business

A. The Chairperson shall call the Commission to order.

B. The Executive Secretary shall record the members present and absent.

C. The minutes of the preceding meeting shall be submitted for approval by the Commission.

D. The Chairperson shall publicly advise those present at the hearing of the procedures followed during the hearings.

E. The Commission shall then hear and act upon those actions scheduled for public hearing, together with any other matters of business.

503. Questions

During the public hearing of a case, any member of the Commission may call upon the owner, lienholder, mortgagee, City Staff or any other person present at the hearing for further questioning relevant to the case.

VI. SUBSTANDARD PROPERTY HEARINGS

601. Procedure for Substandard Property Hearings

A. The Chairperson shall call each case listed on the Commission's Agenda.

B. The Building Official, Code Compliance Officer, or his or her designee, shall present the Code Compliance case at the hearing before the Commission and make recommendations as to the disposition of the case. The Building Official, Code Compliance Officer or his or her designee may offer additional evidence from Code Compliance's file and/or call witnesses. The Commission may ask questions during the presentation of the case.

C. The Chairperson shall call the owner, lienholder and/or mortgagee of the property to cross-examine the Building Official, Code Compliance Officer or his or her designee, and each witness presented by the Building Official, Code Compliance Officer, or his or her designee.

D. Next, the Chairperson shall call the owner, lienholder and/or mortgagee of the property under review to present evidence and/or call witnesses. The Commission may ask questions during the presentation of the case.

E. The Chairperson shall call the Building Official, Code Compliance Officer, or his or her designee to cross-examine the owner, lienholder and/or mortgagee of the property and each witness presented by the owner, lienholder and/or mortgagee of the property.

F. Next, the Chairperson shall call any interested party who request to present testimony. Such presentation shall be limited by the following, unless extended for due cause by the Chairperson:

Groups of 5 or more -- 7 minutes
Individuals -- 3 minutes

G. The Chairperson shall then call for rebuttal testimony from the Building Official, or his or her designee.

H. The Chairperson shall call the owner, lienholder and/or mortgagee of the property to cross-examine the Building Official, Code Compliance Officer, or his or her designee, and each witness presented by the Building Official, Code Compliance Officer, or his or her designee.

I. The Chairperson shall then call for rebuttal testimony from the owner, lienholder and/or mortgagee.

J. The Chairperson shall call the Building Official, Code Compliance Officer, or his or her designee to cross-examine the owner, lienholder and/or mortgagee of the property, and each witness presented by the owner, lienholder and/or mortgagee of the property.

K. The Chairperson shall call for discussion prior to the vote on the case.

602. Motions

A. The Chairperson will call for a motion and vote on whether the property(ies) under review is/are substandard or substandard and a hazard to the public health, safety and welfare.

B. Any member of the Commission other than the presiding officer shall make the motions.

C. The motion under Section 602A shall require a majority of Commissioners present and voting, but at least three (3) votes.

D. When all motions in favor of finding the property(ies) under review is/are substandard or substandard and a hazard to the public health, safety and welfare fail to receive a majority or no less than three (3) votes, the Executive Secretary shall record the votes and record that the Commission has not found that the property(ies) is/are substandard or substandard and a hazard to the public health, safety and welfare.

E. If the motion to find the property(ies) substandard or substandard and a hazard to the public health safety and welfare passes, the Commission will then determine whether, based on a preponderance of the evidence:

a. it is feasible to repair the property(ies) and the amount of time that would be reasonable to complete repairs; or

b. whether the property(ies) should be demolished and no time for repair should be given.

F. A motion under Section 602E shall include provisions for an additional reasonable amount of time for repairs or demolition by a lienholder or mortgagee in the event of nonperformance by the owner.

603. Orders

A. The order of the Commission must require the owner, lienholder or mortgagee of the building to:

1. Within ten (10) calendar days secure the building from unauthorized entry.
2. Within ten (10) calendar days remove all debris, high grass and weeds, and other nuisances from the property.
3. Within thirty (30) calendar days, repair, remove, or demolish the building unless the owner, lienholder or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) calendar days.

B. If the Commission allows the owner, lienholder or mortgagee more than thirty (30) calendar days to repair, remove or demolish the building, the Board shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

C. The Commission may not allow the owner, lienholder or mortgagee more than ninety (90) calendar days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:

1. Submits a detailed plan and time schedule for the work at the hearing; and
2. Establishes at the hearing that the work cannot be reasonably completed within ninety (90) calendar days because of the scope and complexity of the work.

D. If the Commission allows the owner, lienholder or mortgagee more than ninety (90) calendar days to complete any part of the work required to repair, remove or demolish the building, the Commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the Building Official or his or her designee to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the Commission or the Building Official to demonstrate compliance with the time schedules.

604. Contents of Orders.

The order of the Commission must contain at a minimum:

- A. An identification which is not required to be a legal description, of the building and the property on which it is located; and
- B. A description of the violation of minimum standards present in the building; and
- C. A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option; and
- D. A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and
- E. If the Commission has determined that the building will endanger persons or property, or if the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

605. Voting

- A. The Commission shall vote on each case after it is presented and before the public hearing on the next case. During the voting session, no further testimony will be permitted. However, the Commission may direct questions to any party in order to review or clarify testimony or evidence presented at the public hearing.
- B. The Executive Secretary shall record the vote in the minutes.

VII. CIVIL PENALTY HEARINGS

701. Procedures for Civil Penalty Hearings

- A. The Executive Secretary may schedule all cases that have exceeded the time granted in the Order of the Commission for repair or demolition, for a civil penalty hearing before the Commission.
- B. The Executive Secretary shall schedule all civil penalty hearings before any other property hearings to be heard by the Commission.
- C. The Building Official or his or her designee shall present the Code case before the Commission and make recommendations as to the disposition of

the case. The Building Official or his or her designee may offer additional evidence from the Building Official's or Code Compliance's file and/or call witnesses. The Commission may ask questions during the presentation of the case.

D. The Chairperson shall call the owner, lienholder and/or mortgagee of the property to cross-examine the Building Official or his or her designee, and each witness presented by the Building Official or his or her designee.

E. Next, the Chairperson shall call the owner, lienholder, and/or mortgagee of the property under review to present evidence and/or call witnesses. The Commission may ask questions during the presentation of the case.

F. The Chairperson shall call the Building Official or his or her designee to cross-examine the owner, lienholder and/or mortgagee of the property and each witness presented by the owner, lienholder and/or mortgagee of the property.

G. Next, the Chairperson shall call any interested party who requests to present testimony. Such presentation shall be limited by the following, unless extended for due cause by the Chairperson:

Groups of 5 or more -- 7 minutes
Individuals -- 3 minutes

H. The Chairperson shall then call for rebuttal testimony from the Building Official or his or her designee.

I. The Chairperson shall call the owner, lienholder and/or mortgagee of the property to cross-examine the Building Official or his or her designee, and each witness presented by the Building Official or his or her designee.

J. The Chairperson shall then call for rebuttal testimony from the owner, lienholder and/or mortgagee.

K. The Chairperson shall call the Building Official or his or her designee to cross-examine the owner, lienholder and/or mortgagee of the property, and each witness presented by the owner, lienholder and/or mortgagee of the property.

702. Motions

A. The Chairperson will call for a motion and vote based on a preponderance of the evidence as to whether civil penalties should be assessed and the amount to be assessed because the Commission found:

1. the property owner was notified of the requirements of the ordinance;
and
 2. the owner was required to comply with the requirements; and
 3. the owner was notified of the Commission's Order; and
 4. after notification of the Commission's Order, the property owner either:
 - a. committed an act in violation the Minimum Building Standards Ordinance; or
 - b. failed to take any action necessary to bring the structure into compliance with the Minimum Building Standards Ordinance and the Order of the Commission.
- B. Any member other than the presiding officer shall make the motion.
- C. A motion in accordance with Section 702A shall require a majority of Commissioners present and voting, but at least three (3) votes.
- D. When all motions in favor of assessing civil penalties fail to receive a majority or no less than three (3) votes, the Executive Secretary shall record the votes and record that the Commission has not found that civil penalties should be assessed.

703. Voting

- A. The Commission shall vote on each case after it is presented and before the public hearing on the next case. During the voting session, no further testimony will be permitted. However the Commission may review the exhibits in evidence.
- B. The Executive Secretary shall record the vote in the minutes.

VIII. DISQUALIFICATION OF COMMISSION MEMBERS

801. Disqualification

- A. A member shall disqualify him/herself from voting whenever he/she finds that he/she has a personal or monetary interest in the property as defined in state law under appeal, or will be directly affected by the decision of the Commission.

B. A member may disqualify him/herself from voting whenever any owner, lienholder and/or mortgagee or his/her agent, has sought to influence the vote of the member, other than at the public hearing.

C. A member who disqualifies him/herself or abstains from voting on any case shall announce such disqualification or abstention for the public record, prior to the presentation of the case, and shall not take part in the discussion, deliberation, or vote on the case. In the event a member does not discover any circumstances requiring his/her disqualification or abstention until the public hearing, such member shall announce such disqualification or abstention as soon as it is discovered.

IX. RULES AND AMENDMENTS

901. Amendments

Amendments to these Rules of Procedure may be adopted by the Commission at any meeting upon the affirmative vote of a majority of the members present with a minimum of three (3) affirmative votes, provided that such amendment is proposed at a preceding meeting and appears on the minutes of such meeting. By unanimous consent of the Commission, amendments may be adopted at the meeting at which introduced.

902. Certified Copy

A certified copy of these Rules of Procedure and of any amendments thereto shall be filed in the office of the City Secretary within ten (10) days following their date of adoption.