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Members present: Mr. Landon, Mr. Huddle, Mrs. Blevins.

With a quorum present, Mr. Landon called the meeting to order at 6:44PM.

Minutes of June 4, 2018 were read; Mr. Huddle moved to approve, Mrs. Blevins 2nd. Roll call: Ayes: Mr. Landon, Mr. Huddle, Mrs. Blevins, motion carried.

Minutes of June 4, 2018 are approved.

New Business:

Item 1. DISCUSSION: NEW PERSPECTIVE REALITY PRESENTATION RECEIVERSHIP PROGRAM (ROBERT BAER, SHAWN PARKER, DANA MILLIGAN)

Shawn Parker, Receiver at New Perspective Asset Management and part-owner of Parker Realty in Marion, OH, we came to the community and wanted to make known one of the services that we offer we have worked in receivership for a little over 10 years. Receivership is the theory when something is not going right, a problem can be brought to the court system and the court can appoint a receiver over that problem to either mediate or bring that problem to a final solution.

Mr. Parker started about 6 years ago with review of Ohio Revised Code (ORC) and seeing deteriorated neighborhoods in Columbus and Franklin County. He referenced the broken window theory of policing used in New York City. The Mayor's approach to cleaning up the city was to start with one property at a time and use that to affect changes across the entire spectrum of the community. We will start fixing these problems one at a time and start a wave.

Mr. Parker explained that ORC includes elements that allow a receiver to be appointed over blighted housing and nuisance properties. Traditionally, receivership prior to this had been used for businesses where someone was not paying a bank loan. The bank could request a receiver be appointed over a business and therefore someone responsible who was a neutral third party was brought in so that the business could be run until that problem was solved. The ORC was expanded to allow a receiver to be appointed when efforts were made to cure a problem in the community (a blemished property) and nothing was being done and the owner of the property in many cases could not be located. He has found throughout Ohio when they have been talking to other counties that this is a common occurrence. People will move titles faster than the municipalities can actually move to get them to come into compliance. Nuisance issues can be as simple as not mowing the yard, but generally they will have things where someone will inherit a property that they do not intend to live in. The do not want the property. The property, because of legal rights of ownership, sits on the tax rolls with no taxes being paid. People recognize that the property is blighted, but nothing is going to happen because of our property rights. So, the Ohio legislature recognized that and allowed it to go into the code that receivers can be put in place over these types of properties and then they can take the property to market and sell the property. They try to get everyone to line up and come into agreement beforehand and start curing problems in the community.

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Mr. Parker continued that there is no cookie cutter formula for establishing the property. Typically, when you look at it you will know. The fire department is afraid that it will catch on fire and they will be put into harm's way, because who knows what is inside the house it needs to be fixed. We can offer two remedies – fixing property itself and putting it back into service or tearing the property down.

New Perspective has worked with land banks that have tear-down money but in some cases, they cannot get control of the property. The receivership statute allows for a mechanism to take the property from the property owner who is non-responsive or may not even want the property and allows it to be placed under the control of a 3rd party receiver through a court action. Then the remedy process can begin. They are guarded because they do believe in property rights and they do not ever want to see this used where someone is trying to hold onto their property but they just do not have enough money to keep it fixed up. We do not want to take grandma's property from her. Potential projects are properties that have some issues going on, and each community will have its own standards for judging that. It is up to the people here to determine that this is a safety nuisance. If it is a threat to community, then these properties need to be taken and placed under the control of a receiver. They have a clear process to do that through the court system which they have done numerous times successfully. They wanted to come up and explain that to Marion city and county to see if this is something that would be of use here and help us work through the process.

Mayor Schertzer gave some additional background. He explained that New Perspective Asset Management had presented at a "LoDo" meeting. "LoDo" is a subcommittee of Downtown Marion Inc. He thinks this could be a very valuable tool in our community in dealing with some of these zombie properties that council often calls the zoning inspector or the code inspector or the Safety Director (for grass). Perhaps, we could look at these properties and work with a receivership to remedy some of these problems. Their first line of action is not necessarily to tear down the structure but it might come to that. If so, it might be passed on to the county land bank for demolition. The county land bank is our mechanism for demolishing the most blighted properties that are not worth fixing up. Sometimes these properties are worth fixing up and a receivership would be an avenue to do so. He is not sure what role the city plays in this yet, other than helping to identify properties for the receivership to do their evaluation to see if it is something that they can take on. To get the money to fix it up or tear it down, it may have to transition over to the county land bank. He is a member of the county land bank and have requested this topic be placed on the agenda, unfortunately the agenda was set and it was felt that there was not enough time for the receivership program to be heard. He is hopeful that the chair person and the executive director of the county land bank will get them on the agenda in the next month or two so they can come to understand the importance of what they have to offer to this community. They have been successful in Franklin County.

Mr. Parker explained that there are no specific qualifications to be a receiver. The court determines who the receiver is. In process to execute a receivership, generally a person will have an attorney representing the potential receiver. The court can be very sophisticated in the way that it operates. A potential receiver will need to have a strong background in accounting to make sure that the money is good. Receivership is not a defined term.

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He went on to say that they are working an estate situation right now where they cannot contact the people. The property is blighted and no one is stepping forward. They have brought an attorney in, because they want to make sure that they are staying in between all of the lines. They have had about 100 cases (of various types) in the last 7 years. They are processing about 50 right now, working with franklin county. Each case has its own nuances. They need to be sure that we respect rights of everyone involved and that proper notices have been given. Franklin county is also using this for hoarder houses. They are working with the mental health authorities as well because this is another layer of complexity. They are trying to bring in a smart solution to a problem that otherwise we do not have a way to clean up the community and to enforce community standards.

Mr. Parker stated that all properties are put out on open market, with no predetermined buyer. They want to be fair to everyone and get that property back on the tax rolls where they are paying their taxes. They want to get that property fit for the community and safe. Then, the free market needs to be able to do what it does.

He shared a recent case with an elderly lady who had recently entered a nursing home and had no family members to manage her property. She ended up getting a \$65,000 check for a problem that she was mentally unable to cope with.

Law Director Russell addressed question on city and county landbank. Both programs incorporate a side yard split. We have been lucky in response to the sale of the city lots we haven't had to do that. We have had buyers. County land bank is utilizing the side yard split.

Mr. Parker explained that they could sell to a neighbor. They put together a plan going into it and present it to the court. They give a summary of what they know about the property and create a cure plan that is presented in an open court hearing. here's what we know about that property. We know that the roof is gone all the things that we think are wrong then we put together a cure plan.

Additionally, he explained that if the tear down a property, they put a value on the lot. If they think that it brings more money to the estate by separating the lots and selling it to the neighbors, that is one of our causes for cure. There is nothing that happens behind closed doors or under the table. The entire process is completely transparent to court and community. If someone comes in with a better idea, we want to hear it. That is our goal.

He explained how the money is allocated after the sale. The establish a lien theory. First paid are the administrative costs – i.e. attorney for the receiver, receiver fees, the cost we have to administer it. Second, all money goes to the taxes. They want to get any taxes that are sitting there. Third if there is a lender involved, they will try to get a short sale on the lender's note, if needed so that we can clear that property up. Under receiver powers, the judges signature could wipe them out. They also could theoretically wipe out taxes. If the property was going to be torn down and had no value and would be sold to the land bank for \$1, there is no money to pay taxes. One of the issues they get into is that the property may have \$20,000 in back taxes and say no one can touch it because the treasurer is controlling the destiny of that property. The treasurer has a unique set of limitations and they cannot grant favors to anyone. Everyone must pay equally. Through a court action with a receivership, we can petition the judge that there is no cure for the treasurer. Therefore, they are going to tear this property down. They need the taxes written off so they can convey good title to the land bank and they can dispose of it.

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They like to get the treasurer paid because it makes everyone feel good. They are successful in that over 60% of the time, but there are cases where the taxes have accumulated and the property is sitting in an area where it just needs to go away. They would ask for the taxes to be waived. They would publish it and it would be discussed. The treasurer will weigh in on it. That is why they want to bring all the parties together to find the best solution that they can come up with for the community and this property. If the treasurer objects, the judge gets to make the call.

Mr. Parker continued. The law determines what a blighted property is and that it needs to come down. If a person lives within 500 feet of a property that is blighted, they can bring an action to court asking for a receivership. Also, a governmental authority can bring a case asking for a receiver of a property. Lastly, they have formed a nonprofit that has a mission statement for bettering neighborhoods. They have jurisdiction statewide to bring a nuisance complaint and ask for a receivership against the property. They formed a nonprofit on that there might be some scenarios where it is not politically savvy for a city to bring an action against a particular someone. In this case, the nonprofit can step in and fill that role if it is truly a blighted property. They want to be very guarded in how they use that, but it is there in case it is needed to be done. It is not just residential homes. It is also for any type of commercial building.

Mr. Parker explained timelines. If we identify the property, they would be about 3 weeks to get a plan together. Then they would bring the case forward to the court. At that point, they would appear on the court docket. There are another 30 days once they have a hearing for the receivership and then the receiver steps in. They need about another 30 days to notice everyone. A typical scenario is about three months.

Further, a bank has a legal responsibility to make sure that properties taken back by the bank are maintained. You can enforce legally, but some communities do not realize they can enforce. It is fairly easy because banks are state chartered and that requires them to stay in compliance with all laws. Most banks do not like to own property for this reason. They are not going after bank. After the crash, banks were forming holding companies and were dumping lots of properties into holding companies to avoid maintaining properties. Some banks still have those scenarios.

If someone brings a property forward, then they want to look at it and make a plan. They work with many groups in the community – the land bank, Downtown Marion, etc. For example, Legal Aid has brought them a case where a trailer park does not have any water. They are fixing that and putting the property back in service. That is the best they can do to getting back on track.

Assisting with maintaining adequate housing allows them to deal with the affordable housing issue in central Ohio. Under Columbus 20/20, there is a shortage right now of 60,000 affordable housing units. We can take a house that has a good structure and get that house back in service and sell it to a responsible investor. When they sell, that investor is vetted and we present them to the judge. The result is that not just anyone can buy a house. If a potential buyer has code violations that are active or in the last 12 months, they will not sell to them. They must comply and be a good citizen to play. If they are an owner and they are going to live there, New Perspective Asset Management wants to get them back in a good quality house to live in. That is the best thing that they can do for our community. It could be a way to promote home ownership. It is his understanding that 52% of the housing in Marion is rental. If they can

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work with lenders and get financing, this encourages home ownership because they think that is one of the things to help stabilize all communities.

Tom Kenney, Marion Area Chamber of Commerce board member, stated that they have a vested interest in the land bank and other improvements for the county and city. What if the landbank has tried to take ownership by the current landowner being willing to transfer it to the land bank then it gets frozen and stopped because there is already a mortgage on the property. Is that something the city can force action from the mortgage holder? Can you force mortgage company to maintain a quality property?

Mr. Parker explained that unless they take the property into their name, they cannot force a mortgage company to maintain a quality property. This has been supported by Ohio court decisions. A lot of banks will not foreclose on a property that looks ugly, because they do not want to take that responsibility in-house. So, the bank will abandon the mortgage, but they may not do it legally. They may not do it on paper, and just pretend that it does not exist.

He shared an experience like this. He had a home that had gone through bankruptcy and been abandoned. The man showed up at the receivership hearing and did not understand why he got a notice on house he lost 6 years ago. The bank never came and got house. They abandoned it in bankruptcy. Six years later, the house is even in worse shape. He said he would take the house back. The court ordered that he had 30 days to fix it. Twenty days later, he came back before judge and said that he could not afford to take care of this house and asked that it be placed in a receivership.

He shared how the liens stack up. A receiver has very similar powers as a sheriff does. The receiver can sell property on receiver's deed which wipes out everyone and the liens. They present to the court, value the property, and request that property be sold on the open market. After they get payment on the property (after being fairly marketed), they pay off people in the lien chain. The receiver makes a motion to court on how to distribute the money. First paid is administrative costs, second is taxes, and then they divvy up the rest. Only the judge makes the call.

Mr. Kenney said that this could play a big role in helping the land bank. This is another prong in addition to the land bank and tax foreclosures. About 6 months ago, Chad Snyder and he drove around southwest Marion city on a mission to find homes that were nuisance properties or abandoned homes. In three hours, they counted over 100 homes. They cross analyzed it with the Marion county auditor's site to see how many were delinquent on property taxes. He was surprised to see that only about half of them were. What does that tell us about the other half of them? Is this an avalanche where we are going to see more problems and we need to get ahead of it? A receivership can really add a lot of extra value especially with those properties that are nuisance properties but do not owe taxes.

Mr. Parker said that it makes sense and it does work. It is a mechanism that can work in congruency with these other groups. It is not a run off by itself kind of thing. It could be when they get everybody together in a room and smart decisions can be made. There is even a Franklin county group that is targeting certain areas with blighted housing to lift a section of Columbus at a time. That would be for the minds up here to figure what social engineering strategies to apply. Or the stakeholders could pick one and apply the broken window theory. As the city moves forward you will see good things happen.

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Mr. Schneider asked what do the need to do as a city council on our end to make this happen?

Mr. Parker said that the players that he mentioned need to come together. This is their 9th meeting in Marion about this. They will need the court system to look at it because the judge will need to understand how this works. They do not want a judge blindsided when one of these cases comes in and have to spend time to research this application of the statute.

The environmental judge in Franklin county is willing to come up and explain how it is working down there. If we could create in municipal court a judge who has specific environmental powers, that is another step to fast track everything. This can be done by a petition to the Ohio Supreme Court. That gives them one judge to work with consistently rather than cases being assigned to multiple judges. They want treasurer to know about it and have an open dialogue so they know that they will be coming in to analyze properties. The receiver may be looking at absolving previous property taxes.

In Franklin county, they are now starting to go after the tax lien certificate holders because they are some of the worst offenders out. Many live in Chicago and New York City and they just happen to have control of properties here. They can take them out and wipe off their liens. They need to hear from anyone who has a blighted property around them so they can understand how to analyze it and how to make the right smart decision. They do not want to take grandma's house. This is not a bullying technique. Legal Aid started bringing in apartment complexes with code violations. They had one that was 180 units with no heat. The land lord had Columbus code enforcement working with him. They were citing him every two weeks. The guy was paying the fines, because the fines were cheaper than the fix. When receivership threat came in the door, he immediately decided to fix the heat and to abate a bedbug problem. He understood that the receiver can sell his property if he does not get into compliance. This gives the system more teeth, because landlords better comply, or they may lose complete control of their property. That is one of the most impactful things that happens when they bring them into compliance. It was the right thing to do.

Mayor Schertzer clarified that the city only has one judge and a magistrate. The magistrate for the Marion Municipal Court was at the meeting held previously. The court has been informed on the issue of the receivership. He wanted them to present to council and to county land bank so that people can understand what it is. He hopes that they can get it on the agenda at with the land bank soon.

Lois Fisher (property owner) asked how the city would enforce nuisance properties? Is it the city? Is it the health department?

Mayor Schertzer explained that the city does have the ability to enforce those codes on residential housing already in codified ordinances. The city can do it. They can also do it in conjunction with the health department. To expedite the receivership program, this might be something we do out of the Law Director's office.

Mrs. Fisher expressed concern about the manpower needed to this and whether the city would be able to do it.

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Mayor Schertzer stated that he thinks the best thing to do is to meet with Shawn and his team and they can together determine which is the best team to go after those code enforcements.

Mrs. Fisher asked how the company would recover administrative costs if the property was not marketable and it is turned over to the land bank. What is the funding?

Mr. Parker explained that in Columbus they have been taking a receiver's loan against the property and they have been giving them a 3% interest non-recourse loan. They have paid back all of those. However, they do envision that there may be situations where they cannot pay them back. They would also like to bring in county commissioners and talk about block grant dollar availability. Money is a question. They hire local contractors. In Columbus, it is about \$8,500 to tear a house down. The federal dollars are going to run out, so there is not a method at this moment. There is not a method to replenish those dollars.

Mayor Schertzer explained that at the speed that the grant money is being spent, the money is going to run out. The realtors have suggested to the commissioners a funding numerous times at the county land bank. Only the county commissioners can make a decision to do that additional transfer tax. Other than that, there is small amount of money coming in through the sale of the property.

Mrs. Fisher expressed concern over the funding for the administrative costs, because she believes that many of these properties are not going to be marketable. They cannot enforce anybody to pay it, so the 3% nonrecourse loan is good but there must be money there to start with.

Mr. Parker explained that there would need to be conversation to identify properties and resources to see where they can get the money They are talking to DeWine's office and asking for opium corrective monies, and moving over to the two candidates running to replace him. They think a lot of this housing incite drug activity, so they are going to reach out and find other revenue sources with the help of others.

Mayor Schertzer explained that the city can go back to CDBG grants. Those are competitive. The city can apply for a \$500,000 housing grant every other year. The city has received those before. When the city makes applications for a grant like that, they would put in there that it could be used for this type of program.

Vaughn Sizemore (consultant for Downtown Marion Inc. and a founding member of the "LoDo" committee) explained that they struggle to find the tools to help rectify the situation. When these historical homes are being torn down, lots remain empty or the surrounding real estate does not support the house of a same character as one that was torn down.

Mayor Schertzer reiterated that this is a tool in the toolbox and that we all need to work together. Everyone in the room and many others are for it. They need to start talking about it. The first house will have a learning curve for everybody because the city has never done this program before. He hopes that this can be a successful program for properties that we deal with from time to time.

Law Director Russell stated that the judges now would be common pleas court, because there is no environmental division in municipal court. That may change going forward. No code to

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adopt tonight. City codes exist. This was information sharing and we need to keep pressing forward.

Items not on the agenda

Items not on the agenda: NONE

There being no further business, Mr. Landon adjourned the meeting at 8:12PM.

Chairman Landon

Clerk of Council