

The Village of Lexington Common Council held a Special Council Meeting October 1, 2020 at the Lexington Village Theatre ,7318 Huron Avenue Lexington, MI 48450.

Call to Order a Special Council Meeting at 6:37p.m. by President Kristen Kaatz

Pledge of Allegiance led by President Kristen Kaatz

Roll call taken by Clerk, Beth Grohman

Present: Jarosz, Muoio, Kaatz Fulton, Adams, Schultz

Absent: None

Others present: Janal Mossett, Village Attorney, Ashley Stone, Tatman, Irwin and 70 citizens

Public comment: None

ADMINISTRATION

A. LNS MOBILE HOME PARK – DISCUSSION – Tatman follow up to the last study session, different options were posed to council on the path forward take regarding the mobile home and the bluff issues that are faced. Since the last study session we have engaged with the Village attorney to research on the logistics of what is ahead.

Important to know we are still in a fact finding time for the best options.

Options:

Leaving the mobiles on the bluff and dealing with the circumstances around them such as storm water issues and the bluff restoration

Moving the mobiles to another location within the park

Potential sale of the park

Kaatz – Have to look at the liabilities the Village facing.

Janal Mossett – Village Attorney - No precedent in case law addressing the situation specific to this. It is very unique to have a governmental entity that owns a mobile home park, that is on the water in a high risk erosion designation. No other place in Michigan where such a situation is occurred.

Kaatz- First option, do we have to move the mobiles?

Janal Mossett – Three proposals – First option to sell the park, which the Village has a right to sell the park, and the Village has not received any offers to buy the park and has not listed it for sale, not actively trying to sell the park or no intent to redevelop the park or put in a parking lot. It is an option, if there was a buyer, the Council may look at it, but it is not active.

Second option – Moving the homes on the bluff- The Village concerned its residents on the bluff as well as the bluff. It is a high risk erosion area. With this comes liability of the Village. The Village insurance does not cover liability with respect to damage caused to person or property as a result of erosion. There has been discussion on a possible waiver, but that it is not possible. Village has been clear about the risks and liabilities.

If residents come to the Village an offer to move off the bluff, Mossett recommends to the Village that they assist the resident in moving. Recommendation to the Village not to require residents moving off the bluff.

No cases have been found specific to this issue. Recommendation to look at a short term approach and a long term approach. Short term, maintain status quo, but should be aware of the risks, keeping an open dialogue on an ongoing basis. The Village will continue to relay information to the residents of the park. If the erosion continues, residents will be informed. What we can learned will be somewhat hindered by what the state will help with, what EGLE will do and not do. EGLE does not do a study annually, so hindered by the ability to get information. Maintain open communication. Long term determine is there something the village can do to remedy the situation, slow the erosion. Recommend the council look into ways to solve the problem.

Fulton- Letter from EGLE stating the property owner is responsible for the liability of their structure.

Janal Mossett – It is my understanding that if in the event a mobile was damaged due to erosion, the resident is responsible. There are some duties that Village does hold with respect if the Village caused the erosion. EGLE study is unclear what the cause is of the erosion, suggest the Village look into it further and determine if the Village can do something help fix it.

Fulton – Any improvements the Village makes to the bluff does not alleviate the responsibility to the property.

Janal Mossett – The Village can request a change to designation after improvements but that does not mean EGLE will agree to that. The Village has a certain amount of liability to its residents, but extent of the liability is questionable.

Schultz – Am I correct that the Village has no coverage on the bluff and if so could residents sign waivers of liability so the Village is not responsible.

Janal Mossett – The enforceability of waivers is something Michigan Courts have wavered on. The extent of which a resident may waive liability would be up to the residents. The Village cannot force the residents to enter into a waiver. It is a possibility but take mutual consent by both parties.

Muio – Mobile Home Park is a business. The financial situation would cover some of the cost for the mediation of the bluff. Important that there should be some agreement with the residents that the Village has done the best we can do and they have to assume some responsibility. Do some improvements on the bluff.

Fulton – EGLE correspondence the setbacks stay in effect until another study is done. Studies are extensive and take some time and does not guarantee that it will change the designation.

Muio – Capital Improvement Plan does indicate that money is set aside to stabilize the bluff.

Jarosz- Cited letters from EGLE dated January 15, 2020 and January 30, 2020. Letter of January 30, 2020 indicated that the EGLE does not have the authorization to demand the mobiles have to be moved. Jarosz also cited ACT 451. Stated there are three types of erosion area. The forty-five angle of the bluff is completely covered with vegetation. Not every unit is movable at the forty feet. Suggestion to protect the property and get an engineering firm on board and find out how we can protect the bluff. If the park was full, it would generate \$813,000. The thirty seven trailers on the bluff represent 35% in gross income. We need to protect our investment.

Kaatz – The letter from EGLE, just said it was advisable to move the mobiles, but EGLE will not demand we move the mobiles. Have to look at the best interest of the entire Village as a whole. We also have to look at the best interest of the mobile home park. How do we protect both?

Janal Mossett – From a legal prospective comes with some interesting issues. There are reasons why municipalities don't own mobile home parks. The Village is in a unique situation and would not recommend one way or another whether the Village retains or sells the mobile home park. That is up to the council to decide.

Kaatz- As to the risk, liability and responsibility to the Village as a whole as well, and being a land owner tenant situation.

Janal Mossett – The Village is governmental entity and owe a certain duty to the residents and as a landowner you have a responsibility to the tenants.

Kaatz – How do we fix the bluff to the extent that it is safe for the residents without the financial ability?

Janal Mossett – Jarosz made a good point about getting an engineer on board, that is what was meant by a long term solution. Potential options the Village has and considering in terms in cost. Suggested to explore the remedies and what to do based on cost and funding.

Kaatz – How do we address the immediate instances for the individuals on the bluff and consider all the options for a fix. How do we do both?

Janal Mossett – Short term my recommendation would to maintain status quo. The Village has made it clear the individuals what the issues are at this time the residents on the bluff can make a decision about voluntarily move their home off the bluff or stay. I would recommend that the Village not force the removal. If you force the removal the Village would be required to pay to move the mobile.

Kaatz- In the meantime how do protect the residents?

Janal Mossett – I think you have meant your duty by informing the residents what the situation is and if the residents make the choice on that. Also you have meant your duty by exploring a long term solution. My recommendation to keep the bluff residents on notice and explore the long term solutions.

Tatman – If by keeping the residents on notice and the Village making an effort to see what remediation is feasible, that should suffice as far as the liability goes. We are not being negligent to the park or the residents.

Muoio- The engineer that gave us a quote, did they look at several options?

Tatman – Edgewater recommendation was the major boulders back fill with others, grade, and fix slopes. That was the quote for \$3.5 Million for the entire job. We were looking at phases, north was worse than the south.

Muoio – In the Master Plan \$150,000 for improvements \$75,000 in grants. Are you confident that there is grants?

Tatman – Confident that there is grant money out there, no guarantee we would get grants. Need to look at grant money for storm money remediation or shoreline remediation

Muoio- Need to get a plan in place for the improvements in the spring.

Jarosz – Need to meet with EGLE to see if we could get the bluff edge moved from the top of the bluff to the vegetation line. That would give 75 feet and no units would be in the high risk area.

Fulton – EGLE will not change the designation until we meet their criteria for them to come out and re-evaluate. There is a process to follow.

Tatman- EGLE website has a definition document. It talks about the 130 feet and specifies mobile homes are permanent structures, and hazard erosion line. Erosion hazard line is the line along the shoreland that is the landward edge of the zone of active erosion. Conversations with EGLE you have to refer to the top edge where things drop off.

Jarosz – Asked Tatman if they would possibly meet with the Village.

Tatman- Did contact EGLE today and asked about monitoring the Village and was told no they don't monitor between studies.

Kaatz- As Council can we agree that our attorney has given us enough to be comfortable about maintaining status quo.

Adams- Questions regarding the insurance status.

Tatman – Clarifying the insurance company has not dropped the Village it is simply stated that if there was damage to the erosion the Village would not be covered.

Kaatz – We can say that trailers do not have to move. What steps do we want to take to ensure the erosion area are safe?

Tatman – Suggested Chris Heiden take a look at the storm water system to start with. Look at the former map of when it was put in and find out if there has been any impact on system we have in place due to the additions of 34 mobiles, paved driveways, decks and patios, etc.

Motion by Muoio, seconded Jarosz, to get quotes from engineering firms for preliminary proposals for several options for erosion repairs at a cost not to exceed \$10,000.

Discussion

Roll Call

Ayes- Muoio, Jarosz, Fulton, Adams, Schultz, Kaatz

Nays – None

Motion carried

Kaatz – As it has been stated the park is not for sale. Concerns regarding the liability issue and responsibility to the entire Village. Issues concerning marketing. Because the Village owns the park there are some things the Village can't do such as purchasing a model to help with marketing.

Fulton- Suggested getting an appraisal. Would like everyone to know that the park would never be sold to anyone wishing to develop the park into something other than a mobile home, my personal opinion, I would do not speak for everyone, but if there was discussion on selling the park.

Muio- The beach is the most important asset of the park, the 1100 feet of public beach. Need to preserve the beach.

Kaatz – The park is not for sale but an appraisal of the park for accounting purposes and funding purposes for improvements and repairs. Need an actual value of the park before money is put into repairs. Tatman to get a quote on an appraisal to present at the next council meeting

PUBLIC COMMENT

Carol Fuchs –5203 Main - Comments regarding the leases and 30 day notices.

Kaatz responded

Jackie Hill – 5203 Main Lot 106 – Comments regarding the high risk erosion area designation and grants available for the improvements. Also commented about erosion and insurance

Darius Dynkowski – Commented on conversation with Village attorney and believed it was a positive conversation. Also commented that everyone should work together to determine the best possible outcome, erosion, water run and figuring out the problem.

Brad Newcomb – 5203 Main Street – Lot 58 -Commented positive meeting and would like it in a motion that the Village will not require any of the mobiles to move

Tootie Reckinger – 5203 Main Street – Lot 98 Commented on her mobile has been on the same lot for 81 years and no decrease in the size of her lot.

COUNCIL PERSONS COMMENTS

Kaatz – Chris Heiden will check out the water run off. That will done immediately. Hopefully this meeting has alleviated some of the stress to the residents.

Adams – Commented on the problems with the erosion and water run off.

Jarosz – Requested Tatman call EGLE about an evaluation. Also commented on cost and impact of the moving the mobiles.

ADJOURNMENT – Motion by Jarosz, seconded by Fulton, to adjourn the meeting 8:15 p.m.

All Ayes

Motion carried

Respectfully Submitted
Beth Grohman