

The Village of Lexington Common Council held a Regular Council Meeting Monday, August 24, 2020 at Tierney Park 7410 Simon Street, Lexington, MI 48450

Call to Order Regular Council Meeting at 7:00 p.m. by President Kristen Kaatz

Pledge of Allegiance led by President Kristen Kaatz

Roll call taken by Clerk Beth Grohman

Present: Schultz, Muoio, Fulton, Picot, Kaatz

Absent: Jarosz

Others present: Larry Sheldon, Daniel Jonoshies, Darren Tenbusch, Brian Berg (Union Rep) and 38 citizens

Public comment:

Kathleen Parraghi – 5203 Main Street – Comments regarding sign at the DNR, who is responsible for the maintenance of the harbor, concrete is breaking away from railing, more opening and pulling away, lot of weed growth, like to see it addressed.

Richard Stapleton – 5427 Union – Comments on the changing of the zoning districts from R1-A to R1 this effects neighborhood, lots are between Simon Union and Denissen Streets. R1-A was created to provide more spacious lots to accommodate the higher tax base. Owners have maintained the bigger lots. The R1 designation should not be applied to the R1-A but to undeveloped lots. Sacrificing the ambiance created by R1 lot is not justified by putting smaller lots in an area that has had 100 ft lots for over 25 years.

Jeannie Wypasek - Garden Club – Representing the Lakeshore Garden Club speaking on behalf of the rain garden. Available for questions on the rain garden when you reach that part of the agenda.

Steve Stencel- Speaking on behalf of Peggy Stencel -5309 Main Street –As you consider the zoning change today I am appealing to you to reconsider the change from Commercial to Residential behind the A & W. Currently the property houses six apartment which will not conform to the residential zoning. Limiting the potential for the creamery and parking lot to a two story project. Last meeting it was suggested to only allow for two stories instead of three. It was a quick vote with a quick vote no discussion. Think you should reconsider that change. We have been very cooperative with our business improvements over the years, the A & W in the 2004 remained a drive in restaurant without any neon signs. I have delivered a wireless ordering system before they were a thing to accommodate no drive through. We still use that system today. At the creamery we updated and improved an old dairy queen building, removed the concrete from the old Total station and brought in beautiful planters to hide the parking lot, we hired the planting of the flowers. I am asking you to listen to the complaints and make some changes before you put the new zoning in place. I do not understand the reason to devalue the properties that are effected.

Patrick Blakely – 5533 Main Street – Comments in support of the A & W. People come to Lexington to go to the A & W. Commented on the 24 hour police coverage. Also commented in support of Sgt. Dan Jonoshies and reprimand. Think about the things that Sgt. Jonoshies has done for the community.

Steve Stencel -7282 Wayne Street - Do not understand how the firm Smith Group and all the other groups involved in the zoning ordinance arbitrarily dezone the property. No complaints have been received regarding the zoning of the property behind the A & W. Why is it being changed? Devaluing the property. Cannot get an answer. CMU was three stories, quickly changed to two stories. We been talking about developing there and two stories won't work. Limiting to two stories stops development. Rezoning no complaints, asked that remain commercial. CMU why go from three to two. Think about what you're doing. Listen to complaints. These things will inhibit the development of businesses.

Sara Grout – Rzepka Family Trust – 5313 Washington the property that is being intentionally down zoned from Commercial to R1. It is has been Commercial since 1982. The property has been owned by the Rzepka family since 1969. Every time I have asked why this is happening why is it being intentionally downs zoned, and answers have been very vague. Been told it is in line with the future land use map and asked why and was told it is in line with the Master Plan. What is the reason, and still no answer. This is in line with the vision of the community. After reviewing the minutes from the meetings over the last year or so, nothing specifically said they wanted properties down zoned. More tourism, more places for people to stay, down zoning this

commercial property to residential goes against what the community is requesting. Also mentioned last minute changes couldn't be done at the last minute, last meeting the CMU district was changed from three stories to two stories maximum with little discussion.

Jamie McCombs- Planning Commission – Concerns with the three stories, CMU district goes all the way down to Lester Street seeing three stories all the way south Lester Street would be overwhelming to keep in line with the Master Plan and the small town character. Planning Commission worked diligently to come up with a solution.

Jackie Huepenbecker 7108 BR Noble - Planning Commission member – The property behind the A & W goes all the way to the lake and currently zoned commercial, that means the property could have a gas station, flea market, retail stores all in the middle of residential neighborhood. That is the reasoning for the downzoned. Concerns regarding Union Street, we did not just look at one property looked at the whole Village. There are currently 17 properties are nonconforming in the R1A district. That is the reason for changing to R1.

APPROVAL OF AGENDA – Motion by Schultz, seconded by Fulton, to approve the agenda as presented.

All ayes

Motion carried

BUSINESS

ADMINISTRATION

A. MINUTES – Motion by Schultz, seconded by Picot, to approve the Regular Council meeting minutes of July 27, 2020 as presented.

All ayes

Motion carried

B. ZONING ORDINANCE AND ZONING MAP – Motion by Picot, seconded by Fulton to approve the amendments to the Zoning Ordinance and Zoning Map as presented.

Discussion

Muoio – In my opinion, the Planning Commission, I appreciate their hard, but I think some of the concerns should be addressed.

Schultz – Agree with Muoio, maybe have a representative explain why the changes and have another open meeting to address the issues.

Fulton- Adam Young from Wade Trim was here at the last meeting and this has been going on for a year and half, we just keep bumping it back to planning. This is nothing new and can't keep sending it back to Planning every time someone has a question. This is designed to provide the best we can for the entire Village. I happen to feel this is a good ordinance put in place as well as the Master Plan.

Muoio- It is a good ordinance and been a lot of work, there are some cases that deserves some reassessment. Better than spending time in court. Take the time to get it right.

Fulton – Every change that is made will affect someone else, so we appease someone then it does not appease someone else. This was done to accommodate the entire community.

Muoio- All the cases have merit. It is not going to hurt the Village to take another look and see if there is merit. Benefit of public consideration.

Picot, amended motion to include the map and Fulton supported.

Kaatz- Some of the questions asked, we don't have public debate, the Council does not respond. To address the questions, the argument has been that 1982 someone spot zoned a piece of property, that part to the argument of one side, what they want is uniform zoning the purpose stated, concern for the community having commercial to the water, they could put in a gas station, commercial buildings, strip mall, which would not be consistent with what they would like. Steve and Peggy Stencel have no intentions of putting in a gas

station or strip mall, intentions are putting in a boutique hotel, is there a way to meet in the middle and limit the zoning, that is could only be used for a boutique hotel and somehow blend these two things a boutique hotel is consistent with what is wanted in the community. Currently there is a small apartment building, if a boutique hotel is the intent, perhaps a middle ground. Options to present a zoning modification to build to a hotel.

Picot – It is called conditional rezoning and was put in the ordinance to offer more flexibility. The Master Plan and Zoning Ordinance is an all-encompassing document. It is vulnerable to consideration to specific parcels. We need to be broad in our approach to zoning so that is functions properly. A good ordinance will have remedies to address individual concerns. This ordinance does both of those things. It take a broad view and provides remedies. Read carefully and see there is plenty of potential here.

Kaatz – Other side concern this ordinance is only as good as long as the people are sitting here now the next council could vote to change. Concerns if a request is to put in a boutique property there is no guarantee that council will give the nod to such construction project. There is enough of a cross road that we cannot move forward I am not going to vote in an ordinance of three two people. Need a majority vote.

Roll Call

Ayes- Picot, Fulton

Nays- Schultz, Muoio, Kaatz

Motion Failed

Kaatz stated a special council meeting will be set to further discuss the ordinance and address the concerns.

C. RESOLUTUION 2020-01 CHECK SIGNERS – Motion by Fulton, seconded by Schultz, to approve Resolution 2020-01 Check Signers as presented.

Roll Call

Ayes – Fulton, Schultz, Picot, Muoio, Kaatz

Nays – None

Motion carried

D. VILLAGE OFFICE HOURS AND SCHEDULING – Tatman via phone call explained the request to close the office on Fridays, during the work share program. Monday-Thursday are the busiest days and with limited staff it is difficult to schedule days off and have staff members off during the week. Motion by Schultz, seconded by Muoio, to approve the request from the Village Manager to change Village hours to Monday through Thursday while on the 32 hour work week. As soon as the work share program is complete 40 hour work week will resume. Work share program will end in January 2021. The work share program will save approximately \$62,000 - \$63,000 for the six months.

Motion by Schultz, seconded by Muoio, to follow the recommendation from the Village Manager to close the office on Friday through the work share program.

Roll call

Ayes – Schultz, Muoio, Fulton, Picot, Kaatz

Nays- None

Motion carried

E. FIXED ASSEST DISPOSAL POLICY – Motion by Schultz, seconded by Fulton, to approve the amendments to the Fixed Asset Disposal Policy as recommended by the auditors.

Roll call

Ayes – Schultz, Fulton, Muoio, Picot, Kaatz

Nays – None

Motion carried

F. SILVERSMITH DATA MANAGEMENT SYSTEM – Heiden – Request was made last month for a two more bids same data system through other companies. Included in the packet are the two quotes that are two to five percent more expensive for the same capabilities. Heiden reported the other companies, base price is all the same regardless of type of entity and population. Silversmith Data pricing is based on volume and population. Main office is Michigan. If there is issues, they can be handled in a day, whereas the other two

companies are based out of Minnesota and Indiana. The funds will come out of the water and sewer. Sanilac Township has offered to partner, splitting the cost except for the reader, which the Village will be inputting all the data for the water and sewer versus only water for the Sanilac Township. If they part ways, the Township will purchase their own reader. Sanilac Township agreed to the terms. Heiden has made contact with Worth Township in February and they have not responded.

Motion by Kaatz, seconded by Schultz, to approve the purchase of the data management system
Roll Call

Ayes- Kaatz, Schultz, Muoio, Fulton, Picot

Nays – None

Motion carried

G. UNION GRIEVANCE –

Motion by Picot, seconded by Kaatz, to approve the reprimand recommended by Chief Sheldon.

Discussion

Schultz – Questioned if Sgt Jonoshies wanted a closed session.

Kaatz – Asked Sgt. Jonoshies would like a closed session. Sgt. Jonoshies response to keep it open.

Brian Berg- Union Rep- Okay with open session.

Chief Sheldon asked to keep Officer Dave Hall in your prayers, he has been diagnosed with cancer.

Chief Sheldon presented the investigation of Sgt Jonoshies's accident on April 15, 2020.

Chief Sheldon's recommendation for reprimand is thirty days suspension without pay, fifteen days to be served now and fifteen days held in abeyance for twenty four months. The fifteen days held in abeyance will be served for any future violations that are not deemed serious. Sgt. Jonoshies will forgo his \$100 Christmas bonus. Should Sgt Jonoshies have another serious at fault accident or serious incident, employment will be terminated with the Village of Lexington.

Schultz – Reprimand over the standard progressive steps, are you making up your own rules?

Chief Sheldon – Suspension falls under the steps for drunkenness, chronic absenteeism, reckless or gross negligence resulting in a serious accident while on duty or reckless or gross misconduct causing major property damage. The recent accident on April 15, 2020, to replace the vehicle cost over \$39,000. Sheldon responded to Schultz, stating if this was a new officer who didn't know the streets and stop signs, that is different than a six year officer. Sheldon stated he checked to make sure the stop sign had not been removed. Sgt Jonoshies knows there is stop sign and failed to stop, I believe that is reckless, he damaged a citizen's vehicle. I feel the reprimand is appropriate, could have caused a serious accident.

Fulton- This is the second car that was totaled.

Muoio- What was the outcome of the first accident

Chief Sheldon – The accident report states Sgt Jonoshies was found at fault due to the speeding.

Schultz – Following procedure and what is right.

Chief Sheldon – I did follow the contract, it is stated for negligence and recklessness you may suspend or terminate. Offered Sgt Jonoshies to serve his fifteen days over a period of two years so not to cause financial hardship.

Muoio – At the end of two years, and no incidents would this be removed from his file?

Chief Sheldon – Responded that after two years with no incidents, this cannot be held against him, should another incident occur after the twenty four month period. The \$100 Christmas removal not fair.

Kaatz – Reported the increase of insurance over the last two years. Sgt Jonoshies did not receive an at fault citation for either accident, no points on his driving record. Outfitting of the first vehicle and the vehicle cost was over \$30,000 this was \$39,000 not to mention the overtime hours that was paid out to staff.

Chief Sheldon – Gross negligence the lax of slight diligence or care or conscious voluntary act or admission of reckless disregard of a legal duty and of consequences of another part. Reckless lack of regard of ones actions. We cannot wait until there are four accidents to go suspension or termination.

Brian Berg – Union Rep – In reference to the investigation and statement, how easy it is to interpret something. Witness thought the police car was traveling 35-40 mhp, data box indicated that five seconds

before the accident the vehicle was going 12.9 mhp, 2.5 second mark vehicle was going 5.5 mhp and at the time of the accident 15.8 mhp. He slowed down for the intersection and rolled through the stop sign. First accident Sgt. Jonoshies was not found at fault until after his return to work. In the first accident investigation there no indication that Jonoshies was speeding or at fault. Berg stated the union does not see this incident as gross conduct or gross negligence. Grievance stated this is violation of the contract.

Kaatz – Personnel Committee sent to council to accept the recommendation of Chief Sheldon. This is all preventable. Sgt Jonoshies job is to enforce the law, how can you cite a citizen for doing the same thing. It is not just the financial loss, the of loss of respect for our department, if you don't respect the laws you are here to uphold why are the citizens going to do it. Every stop sign is put there for reason, to protect citizens. A conscious decision was made to roll through the stop, which is reckless.

Kaatz called the question

Roll Call

Ayes – Fulton, Picot, Kaatz

Nays- Schultz, Muoio

Motion carried

H. RAIN GARDEN REMOVAL – Jeannie Wypasek – The Rain Garden was mistakenly removed July 2, 2020 order from the Village Manager, even when it was being tended to and flowers were planted that very day. Lakeshore Garden Club was not notified and requesting better system of communication. The Garden Club requesting reimbursement for the plants. Some of the plants are coming back. Wypasek presented an approximate estimate of replacement.

Picot did speak with Manager Tatman regarding the Rain Garden, after receiving complaints regarding shape of the rain garden.

Kaatz asked Wypasek to contact Village Manager Tatman regarding the cost of the replacing the plants that have not come back.

FINANCIAL REPORTS – Motion by Schultz, seconded by Fulton, to approve the check register in the amount of \$205,714. 93 check numbers 35590 through 35645 and the financial reports.

Roll Call

Ayes- Schultz, Fulton, Muoio, Picot, Kaatz

Nays – None

Motion carried

PUBLIC COMMENT

Kathleen Parraghi -5203 Main Street – Commented on the removal of the rain garden and greenery growing out of the sewers, sidewalks no edging, greenery growing around the harbor. Signage at the harbor in need of attention and the light poles. Also commented on the beach closing and the number to call is in correct.

Steve Stencil – Thank the council for determining that you need to take a closer look at the zoning and Master Plan. The overall community plan is a grand vision and it is needed. Need to look at what is existing. Don't need change to something different, if want to address future businesses that is understandable, but don't fix what is not broken. Community doesn't own the businesses the individuals do. This is what America is built on and communities across the country are act like it is municipalities that own these, they do not. Need to respect the homeowners and businesses. Specific, three story to two story change the areas, but right in town you have a competitive disadvantage only allowing two stories. Don't disrupt what is here.

Jamie McCombs – Clarifying the Council is not sending it back to Planning. Recommended the Council read thoroughly the Master Plan. It is not an individual vision it is the vision of the community, it is the Master Plan that dictates. Also the Environmental Committee was not in charge of the rain garden.

COUNCIL PERSONS COMMENTS

Picot –For those making the decisions on the new zoning ordinance I recommend you read the audit, prepared by the Planners, and shows the deficiencies in our current ordinance.

Muoio- Some of the areas mentioned that need work are not Village property , they are the responsibility of other agencies, county, DNR and state.

Fulton – Would be nice to have unlimited resources to all that needs to be done, we do pretty well with what we have.

Kaatz- The vote down of the Planning Commission hard work, it was not to vote the work down, we don't have enough votes to pass it. Not discounting the hard work. The two story issues is because our fire department does not have the equipment to go three stories it is a health and safety issue. Harbor wall very easy to take shots at everyone for everything that they do not. Know the facts, we do not control the breakwall that is the Army Corp of Engineers. State employees we have no control over their knowledge or the ability to do their job. Everyone here is doing the best they can. The Garden Club was hurt right now the gardens are not maintained because of the circumstances some people couldn't get out to work on them. We feel bad for what happened we are moving forward. There are limitations everyone in the DPW, the stress of no summer help, the lawnmowers that we normally have. Our staff is doing everything if you see something that needs to be fixed, time to lend a hand. Please try to be positive. See everyone's point of view.

ADJOURNMENT – Motion by Muoio, seconded by Schultz, to adjourn the meeting 8:59 p.m.

All Ayes

Motion carried

Respectfully Submitted

Beth Grohman