

**MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF THE
PORTAGE CITY COUNCIL OF SEPTEMBER 16, 2019**

Mayor Patricia Randall called the meeting to order at 5:30 p.m. The following Councilmembers were present by 5:31 p.m. - Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid, Mayor Pro Tem Jim Pearson and Mayor Patricia Randall. Councilmember Terry Urban was absent with excuse. Also present were City Manager Laurence Shaffer, Deputy City Manager Rob Boullis, City Attorney Randy Brown, Deputy Director of Planning, Development & Neighborhood Services Chris Forth and Deputy City Clerk Erica Eklov.

Mayor Randall thanked everyone for coming and staff for their efforts on the proposed Residential Ordinance amendments. Mayor Pro Tem Pearson expressed frustration with attendance and asked to make a comment for the record that all Councilmembers should make every effort to attend special meetings when a Doodle poll is utilized. Councilmember Reid offered in response that the Doodle poll was sent out well before this particular meeting was scheduled. City Council reviewed their busy meeting schedule and the preference to avoid future scheduling of meetings on a Monday preceding a regular Council meetings.

Mayor Randall introduced the topic of the meeting and invited City Manager Shaffer to begin the discussion. Mr. Shaffer shared that the Community Development Department and the Planning Commission have been working for a year-and-a-half to clean up issues with the existing residential ordinances that had been identified by Community Development, the City Administration and the Planning Commission. He noted that the proposed ordinance amendments had resulted in questions from Councilmembers when it was first introduced in August, resulting in the Committee of the Whole meeting and that he hoped to address those questions at tonight's meeting with the assistance of Deputy Director Forth.

Deputy Director Forth explained that several sections of the ordinance have been identified that need updating based on responses from citizens or from city staff. He highlighted that the proposed changes include: area and height of accessory buildings; increase in residential building height; increase in non-residential building height; projections for yards; additional language regarding drainage and lot grading requirements; and, increasing the approval length for site plans and Zoning Board of Appeals and Planning Commission review. Deputy Director Forth also highlighted the September 16, 2019 memo from Director Georgeau addressing concerns with lakefront lot coverage changes from 25 percent to 30 percent and conforming vs. non-conforming properties.

City Manager Shaffer noted the City Administration is comfortable with 30 percent lot coverage and noted the concern is more with nonconforming lots that do not meet the size requirements. He asked Deputy Director Forth to illustrate the distinction between the 25 to 30 percent lot coverage provision. Deputy Director Forth stated that, while the city's current lot coverage requirement is 25 percent, most communities trend more toward 30 percent. He explained most issues result from nonconforming lots in terms of area and handling of stormwater. Mr. Forth noted issues with spot flooding on Lakeview Drive as an example as to why the City Administration has focused more attention on stormwater management.

Mayor Pro Tem Pearson inquired whether stormwater issues are the responsibility of the homeowner or the city. Mr. Forth responded that it is the city's responsibility to address.

Mayor Randall commented that she has been contacted by citizens waiting on building projects, pending the outcome of the proposed residential amendments, as well as others who have noted the review process with the Community Development Department has been unpleasant and seemingly subjective. She expressed her desire to ensure a fair and equitable review and approval process.

Deputy Director Forth responded that staff debated the proposed amendment change from 25 to 30 percent and noted that the department has also received citizen complaints over the last few years regarding stormwater that factored into the decision process.

Mayor Pro Tem Pearson commented that he has wanted these changes for years based on prior experience on the Zoning Board of Appeals (ZBA), as well as a previous personal lakefront property

proposal. He expressed concern that the September 16, 2019 communication to Council did not include the ZBA information he previously requested. He noted the "Substandard Lakefront Lots" map provided in the Council packet and stated it did not illustrate the lakeside promenade land usage and feels promenades are an obsolete land use. Mayor Pro Tem Pearson requested that City Attorney Brown and Deputy Director Forth review other Michigan communities with lake frontage lots in order to determine whether others still use or enforce the promenade land use. He further asked Brown and Forth to research the legal definition of a promenade and review prior court cases regarding adverse possession rules as they relate to promenades.

Councilmember Reid inquired whether the promenade land usage was similar to road ends and Mayor Pro Tem Pearson responded that promenades extend around the entire lake with access to all. Deputy Director Forth noted that plats should also define these access points. Mayor Pro Tem Pearson offered that each plat description is different. He stressed that the City Administration needs to update its approach, citing the common progression of the lakefront cottage settings into lakefront home developments.

Councilmember Knapp inquired whether the city should have a specific zoning designation for lakefront properties based on the unique parameters. Deputy Director Forth responded that such a zoning designation is possible, noting other communities have similar models.

Councilmember Reid inquired if building height regulation changes could affect lake views and also questioned whether the city should review permeable vs. non-permeable surface types when reviewing land coverage. Deputy Director Forth responded that permeable surfaces are a possible option but not popular with residents and builders.

Councilmember Ford questioned how the City Administration would differentiate between conforming and non-conforming with a specific lakefront zoning designation. Deputy Director Forth offered that most properties would conform unless it was new construction, noting city staff has repeatedly encountered conflicts involving building height. City Council then discussed building heights and the potential for implementing a lakefront overlay zoning district.

City Manager Shaffer offered to bring the proposed amendments back within the City Administration and collaborate with the Planning Commission on a lakefront area overlay district and a more comprehensive revision. He stated that the City Administration would then bring the modified amendments back to City Council at a later date.

Councilmember Ford responded in favor of City Manager Shaffer's proposal but inquired if Council could separate the lakefront property aspects for further review from the other amendments being proposed.

Councilmember Reid inquired whether the lakefront property issues included in the discussion would also apply to other wetland properties within the city. Deputy Director Forth responded that the issues are not similar owing to the larger lot size of non-lakefront locations.

Councilmember Knapp asked why the various residential amendments were being presented to Council at this time in light of the city's upcoming Comprehensive Plan update. She asked whether it made sense to incorporate the amendments as part of any changes resulting from the Comprehensive Plan review. Deputy Director Forth relayed that the majority of amendments proposed were simply minor clean-up revisions. City Manager Shaffer noted that the Comprehensive Plan update will be a more extensive process, whereas the proposed amendments are discrepancies needing to be addressed at this time.

City Manager Shaffer stated that he liked the idea of a separate district for lakefront properties, citing it would be easier from a citizen perspective. Mayor Randall responded with her preference for maintaining ease and equality with the process. She asked Deputy Director Forth to examine how similar communities with lakes are handling these situations. Deputy Director Forth then summarized Council's concerns with lakefront properties that need additional staff review.

Mayor Pro Tem Pearson requested that Deputy Director Forth provide the ZBA minutes from the past 25 years, specifically related to the ten lakefront properties referenced in the meeting packet. He

also asked City Attorney Brown for a copy of the opinion from former Assistant City Attorney John Kneas dating from the late 1990s relating to promenades and plat definitions. Mr. Pearson then asked staff for an updated lakefront lots map that illustrated all types of land surrounding the lakes, including promenades, right-of-ways, accepted plat dedications, etc. He also requested a copy of the state law regarding ownerless promenades and the relation to adverse possession, along with the Supreme Court decision on public right-of-ways surrounding lakes. Lastly, he asked staff to provide regular progress updates on the proposed zoning overlay district in order to maintain momentum on the topic.

Councilmember Knapp inquired how further delay and examination of the proposed amendments will affect those homeowners with projects pending on the ordinance revisions. Deputy Director Forth asked that the other amendments continue to move forward with Council, including building height. He stated lot coverage matters can be addressed with specific adjustments.

Councilmember Reid stated her desire that the Council not pursue the 30 percent land coverage proposal citing uncertain variables and how it will be administered. She then inquired about the proposed Section 42-125 amendment. Deputy Director Forth noted that the City Administration is proposing to remove the requirement that individual lots have street frontage, instead allow the use of easements and guaranteed access for emergency vehicles.

Councilmember Knapp asked for an explanation of the proposed Section 42-125 amendment. Deputy Director Forth responded that the proposed amendment should streamline the application process between the Planning Commission and the Zoning Board of Appeals. Discussion regarding next steps to move the proposed amendments forward with City Council followed, excepting further study on lakefront properties.

Mayor Randall noted the time for public comment and acknowledged the citizen present. Jim Hudson, 9001 West End Drive, inquired about Section 42-180 protecting the neighborhood from incompatible uses and asked if it was intended for rentals. He noted that his neighborhood had experienced issues with rental properties. He also expressed his preference for the current ZBA procedure relating to land coverage.

Mayor Randall summarized the meeting discussion and the plan to have the proposed amendments on the agendas of the upcoming regular meetings.

ADJOURNMENT: Mayor Randall adjourned the meeting at 6:44 p.m.

Erica L. Eklov, Deputy City Clerk