

CITY OF COOPERSVILLE
REGULAR MEETING OF THE CITY OF COOPERSVILLE CITY COUNCIL
CITY HALL, 289 DANFORTH ST.; COOPERSVILLE, MICHIGAN

August 8, 2022

Present: Council Member Bush Council Member Lampe
Council Member Degeus Council Member Weise
Council Member Gavin Mayor Young
Council Member Gerard

Absent: NONE

Additions/Corrections to Agenda NONE

Scheduled Guests and Public Hearings

Public Hearing – Proposed Amendment to Chapter 1035, Street Tree Ordinance

Motion by Council Member Lampe with second by Council Member Weise to open the public hearing at 7:01 P.M.
Motion carried unanimously. (2022 – 077)

City Manager Dennis Luce explained the purpose of the proposed amendment, stating further that trees that are planted in the right-of-way become the responsibility of the city to maintain and/or remove, and the trees can interfere with the underground utilities in the right-of-way. Mr. Luce also informed the Council that several years ago a Tree Board was formed as a requirement, for the city to obtain a grant from the Department of Natural Resources for the purpose of purchasing and planting trees.

Being no further discussion, a Motion was made by Council Member Bush with second by Council Member Weise to close the public hearing at 7:05 P.M. Motion carried unanimously. (2022 – 078)

Citizens Input and Suggestions NONE

Consent Agenda

Motion by Council Member Lampe with second by Council Member Bush to approve the Consent Agenda as presented. Motion carried unanimously. (2022 – 079)

- ***Minutes of the City Council meeting held on July 11, 2022***
- ***Checks through 8/08/2022 totaling \$1,621,924.90***
- ***Georgetown Construction, Sunset/Greenfield Improvements- Payment 2, Totaling \$182,368.80***
- ***Northwest Kent, Blower No. 3- Payment 4, Totaling \$45,346.80***
- ***Council Information packet***

Petitions and Communications

Motion by Council Member Degeus to approve the purchase of twenty-two (22) new guest chairs for the Council Chambers from Modern Office Interiors totaling \$12,015.04. *Motion failed for lack of support.*

Motion by Council Member Gerard with second by Council Member Bush to approve the Veterans Park Ball Field One (1) fence repairs by Fence Solutions totaling \$15,800.00. Motion carried unanimously. (2022 – 080)

Motion by Council Member Lampe with second by Council Member Gerard to approve the proposed Amendment to Chapter 1035, Street Tree Ordinance. Motion carried unanimously. (2022 – 081)

Petitions and Communications continued

Discussion was held on the Eagle Ridge Neighborhood Green Space.

City Manager Dennis Luce stated that the Eagle Ridge Neighborhood was platted through a series of five plats executed between 1996 and 2002. Eagle Ridge Subdivision includes a total of 117 private residential parcels. The plats also identify the five (5) additional parcels that were to be dedicated private parks (green space), restricted to the use of lot owners in the development. The five (5) private park parcels constitute about 8.3 acres of land. Staff could not locate any sort of master deed establishing a condominium association, a homeowners' association, or any other deed restrictions as to the remaining Eagle Ridge lots. The developer, BBT Development LLC dissolved in 2006. BBT remains the owner of record for the five (5) Eagle Ridge parcels dedicated as private parks.

The five (5) parcels are not open for the use of the public, therefore the city is without legal basis to provide any ongoing maintenance for these parcels, such as mowing, because the expenditure lacks a valid public purpose. These parcel types, known as "common amenity," properties are not being taxed, and are being assessed at a value of \$0. The city has classified these properties as "non-assessable subdivisions commons, zero value" which appears to accord with the STC's guidance.

In deciding whether to change the taxable classifications of these parcels, the city should consider its internal precedent on whether it is taxing any similar private park parcels. Because these parcels are subject to private dedication's they would not qualify for a tax exemption under the two (2) sections that generally apply to public parks. MCL 221.07m and 211.7x. If the city did come to own these parcels (through the tax foreclosure process, through eminent domain, or otherwise) the city may choose to keep the land, or the city may dispose of the land through a plat amendment lawsuit under the Land Division Act, MCL 560.221, et seq. Given the number of parcels that would be affected by such a plat amendment and the unusual shapes of these park parcels, a plat amendment lawsuit would complicate from both a legal and surveying perspective.

The following is a series of potential options for Coopersville to consider, beginning with the option that will be the least intensive to the option that would be the most intensive:

- ***Leave the property tax classification of the five park parcels as is. Inform the inquiring property owners that the city is unable to assist in the maintenance of these parcels.***
- ***2 Same as option #1, but the City will enter-into, a private contract with all the homeowners in the Eagle Ridge development to convey a sufficient legal interest in the properties to the City and to provide for the ongoing maintenance of the five park parcels, with the city receiving compensation from the homeowners to cover the cost associated with the maintenance. The City will then maintain these properties pursuant to the contract.***
- ***The city changes the taxable status of these parcels and begins assessing them according to a nominal valuation. Assuming the owner of record does not pay the taxes due on these parcels, the parcels are put up for tax auction and end up being owned by another private owner, the***
- ***City informs the private owners that the parcels must be maintained. Same as option #3, except the parcels do not sell at tax auction and the ownership of the parcels are conveyed to the city. The city then begins a lawsuit on the Land Division Act to divvy up the five parcels and transfer ownership to the abutting lot owners in the Eagle Ridge development. Alternatively, the city may amend the plat so that these parcels remain in place but the designation is changed to public park land and the city undertakes maintenance on an ongoing basis.***
- ***The City exercises eminent domain and takes ownership of the properties. The city then begins a lawsuit on the Land Division Act to divvy up the five parcels and transfer ownership to the abutting lot owners in the Eagle Ridge development. Alternatively, the city may amend the plat so that these parcels remain in place, but the designation is changed to public park land and the city undertakes maintenance on an ongoing basis.***

Petitions and Communications continued

Council Member Gavin asked if the gas company had a current easement in the development and inquired as to whether it is still an active gas line.

Council Member Degeus asked why this issue was a city problem and asked why the Council was even discussing this issue.

City Manager Dennis Luce stated that this came up at the July 2022 Council meeting and the city receives inquiries about this every spring, so he compiled the information to have on record for future inquiries.

No further discussion took place.

Magnus Capital (HoM Flats) Proposed PILOT

Magnus Capital (HoM Flats) proposed an eight percent (8%) PILOT for a period of thirty (30) years which would generate about \$45,000.00 annually for a new housing complex at 568 W. Randall.

The City Attorney, Blake Conklin of Bloom, Sluggett PC was present and informed the Council that the applicant, Magnus Capital would not agree to the establishment of an escrow account as proposed by the city. The absence of an escrow account means the city will have no liquid financial guarantee of performance by the applicant to ensure its obligations under the PILOT agreement.

Motion by Council Member Bush with second by Council Member Gerard to **NOT** approve the resolution for Magnus Capital (HoM Flats) proposed PILOT Agreement. Motion carried by a 4-3 vote of the Council. Opposed- Council Members Gavin, Degeus, Lampe.

Motion by Council Member Lampe with second by Council Member Gerard to approve the refurbishing of the CAT Loader to be performed by Michigan CAT for a total of \$48,200.73. Motion carried unanimously. (2022 – 082)

Motion by Council Member Gavin with second by Council Member Lampe to approve the Service Line Replacement by McDonalds Plumbing totaling \$35,000.00. Motion carried unanimously. (2022 – 083)

Citizens Input and Suggestions

City Resident Tammy Huff asked for an update on the Greenfield/Sunset Project. Ms. Huff stated that the roads are in terrible condition right now and the contractors are leaving garbage all over and/or burying it in the holes they fill in. Ms. Huff stated that she and her husband have been picking up garbage bags full every night.

City Manager Dennis Luce stated that he would take care of the garbage issue first thing tomorrow.

City Manager's Report

City Manager, Dennis Luce reported on the following:

- *Will work on new quotes for chairs*
- *Proposed Ordinance Amendment for Sidewalks is in progress*
- *Attended an Open House for Creative Paint on Main Street today. They are going to be a great addition to the Downtown.*
- *Recognized AAA Lawn Care for the great work on the Round-About.*
- *There are some issues with the old waterlines on the Greenfield/Sunset Project. The old lines are very brittle and break very easily.*
- *East Gateway Street will be taken over by the city once the contractor gets everything completed that they are responsible for.*

City Clerk's Report

City Clerk Kimberly Borgman presented the following results from the August 2, Primary Election:

Total In Person Voters = 612

Total Absentee Voters = 369

Total Registered Voters = 3434

Overall Turnout Percentage = 28.56%

City Treasurer's Report

City Treasurer, Keri Beth Rogers is on vacation this week.

Mayor Young's Comments

Mayor Young reported on the following:

- *Thanked Council Member Gavin for assisting with the cleanup in Eagle Ridge after the storm*
- *Thanked Amanda Wilson for helping the band coverup their equipment when the storm hit at the last Main Street Concert*
- *Needs teammates for the Water Ball Event on Wednesday August 10th*
- *Officiated his first wedding as Mayor recently*
- *Concerns on running out of land in the city to build homes on*

Adjournment

Motion by Council Member Bush with second by Council Member Weise to adjourn the meeting at 8:09 P.M.

Motion carried unanimously. (2022 - 084)

Duane Young, Mayor

Kimberly Borgman, City Clerk