

A worksession of the City Council was held at City Hall, 200 S. Main Street, on Monday, March 29, 2010, at 5:00 p.m.

Present were Mayor Platte and Councilpersons Greenhoe, Brown, Letarte and Harri. None were absent.

Administrative Staff Present was City Manager Bill LeFevere, City Superintendent Scott Poyer, WWTP Director Todd Nichols, Treasurer Robert Damon, Police Chief Paul Malewski, Fire Chief Roger McNutt, Building Inspector Jon Hill, Deputy Carla Mazur, City Attorney Phil Erickson and City Clerk Kristy Reinecke.

Purpose of the meeting was a worksession. Notice of the meeting was duly given.

Public Comments:

None.

Old Business Topics of Discussion were:

None.

New Business Topics of Discussion were:

City Attorney Erickson reviewed with Council the proposed Rental Housing Ordinance and Rental Property Registration Process. Attorney Erickson stated that he would advise Council to adopt the International Property Maintenance Code as this documents was a much thorough document.

Councilman Letarte asked what exactly Council was trying to achieve by adopting this proposed Ordinance. Mayor Platte stated that it was to make sure that properties were safe for renters as well as having violations better addressed with the main overview being on rental properties.

Councilman Greenhoe questioned what the second purpose was other than the safety issue. Mayor Platte stated that it was being proposed so that slum landlords who did not maintain their properties could be addressed. Mayor Platte stated that this could be done either by the proposed Ordinance or by some type of hybrid such as self governing or an appointed committee to address these issues other than Government. Mayor Platte stated that his thrust for this had changed as he now had time to research this issue and gather all of the facts, and that his opinion on the issue was not the same as it had originally been, but that it still needs to be addressed.

Councilwoman Brown asked why his focus had changed. Mayor Platte stated that he still feels this needs to be addressed, but that the path to address this has changed. Mayor Platte stated that to require landlords to have to register every three years and to require a

continuation of the City Building Inspector to evaluate these properties forever, that he was not sure this was the proper avenue any longer.

Councilman Letarte questioned if there were really pressing issues with rental properties within the City. Mayor Platte stated that there was and that was to keep the properties in a safe manner for their tenants.

Councilman Harri asked what the percentage was for other City's that have this type of Ordinance. Councilman Harri stated that he was not in favor to have regulations just to have regulations, but would really be interested in finding out the percentage or comparable communities that had this type of Ordinance and did not want the City to be the odd rock out.

Councilwoman Brown questioned that once this information was found out, was Council willing to act on this or were they just going to keep playing with this issue or if they were really serious about adopting something like this or should it just be scrapped altogether. Mayor Platte stated that this proposed Ordinance has been being worked on in the background for quite some time now. Councilwoman Brown stated that she had no problem with continuing to discuss this as long as Council was serious about it.

Mayor Platte stated that he is serious about this and about the safety mechanism for the tenants, but was not sure that a continual three year inspection was the answer. Mayor Platte stated that maybe it needed to be something that was not 100% City Government implemented, but again, some type of hybrid. Mayor Platte stated that maybe the answer was to only at this time adopt the International Property Maintenance Code and start using this as the City's guideline.

Councilman Harri stated that he did not want this kind of authority given to one person. Councilman Harri stated that the Police and Fire Departments could be used as a reporting mechanism as well as other means by other City employees reporting problems to the Building Inspector. Mayor Platte stated that this was a definite possibility, but did not want this duty to fall solely on the shoulders of the Police and Fire Departments as when they were in situations seeing these instances they were there to preform their jobs first, but that it was a possibility to bring this to the Building Inspector's attention.

Councilman Letarte stated that he was worried about this being proposed due to anecdotal evidence and questioned how many bad homes are actually out there. Police Chief Malewski stated that when his Officer's had come upon these types of situations, that they had reported this to the Building Inspector and he had in turn contacted the owner of the property and the owner was in the process of rehabilitating the property.

Councilman Greenhoe stated that in cases such as the Police Chief had mentioned that the City had recourse to address these situations. Councilman Greenhoe stated that it was the other cases that slipped through the cracks and these were the issues that needed to be addressed. Councilman Greenhoe stated that he had a problem with the proposed Registration language, and that this was the part that made him uneasy. Councilman Greenhoe stated that this process would be cumbersome for the landlords as every property needed to be registered and that by signing the proposed Registration the City would have a lifetime inspection and would not be restricted, and that this was very worrisome language.

Attorney Erickson stated that the City already had that ability under the current Code. Attorney Erickson stated that the City had the right to do this, and that it would be his advice to always give notice to the owner as well as the occupant before just showing up at the door and demanding an inspection, but that the City has a legal right to inspect. Councilman Letarte stated that this was not correct and that the property owner or occupant has the right to refuse entry unless there was an Administrative Search Warrant granted to the City. Attorney Erickson stated that in the case of an emergency situation an Administrative Search Warrant would not be needed.

Councilman Greenhoe stated that his problem was with giving lifetime permission to have this done through the proposed Registration process. Building Inspector Hill stated that the language stated that the proposed Registration was only good for three years. Councilman Greenhoe stated that this was still cumbersome to the landlords as every three years they would need to re-register. Councilman Greenhoe stated that in the case of Edgewater Apartments, they had 74 units and that this was a lot of paper work for them to have to fill out. Councilman Greenhoe also questioned why it was required to know the square footage and number of rooms for each unit as the City Assessor should already have this information. Building Inspector Hill stated that all of the Assessor's records were not current and that why the number of occupants was required was per the Building Code as only a certain number of occupants were allowed per the square footage size.

Mayor Platte posed to Council that he believed that there was a need for some type of an overview for rental properties for maintaining the City as a whole, whether it be with the Ordinance that was already on the books, the proposed Ordinance or some type of other hybrid option.

Councilman Harri asked what equal size communities were doing, and again stated that he would like to see these percentages and comparables.

Mayor Platte stated that whether other communities were doing this or not, the City need to have a mechanism in place to maintain a high level of standard for safety issues. Mayor Platte further stated that we want people to move into our community, so

people moving in

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needed to see the curb appeal. Councilman Letarte stated that he agreed with the curb appeal, but there is a property on River Street that has their porch loaded with junk, and it has been this way for years. Councilman Letarte stated that right now, this home is in violation of the Ordinance that is on the books, and we already have the tools in place, we just need to take care of these issues and address them. Councilman Letarte stated that he did not think it should matter whether it be a rental property or an owner occupied property, there was currently a property where the chimney was falling in on the roof, that he believed was owner occupied, and that the point is that the City has the tools to address these types of issues right now. Councilman Letarte stated that just in the past week he has identified two properties, and it is not even his job to drive around everyday looking for it and this should be done by the people in that position within the City. Councilman Letarte further stated that he felt that 95% of the landlords within the City were good landlords and only 5% were bad, and all the City would be doing by approving this proposed Ordinance would be to penalize the good and caring landlords.

Councilman Harri stated that we should be currently enforcing what is on the books equally and unbiased and maybe the solution was to enforce what is on the books now.

Councilman Greenhoe stated that at the meeting there were 6 landlords present, and all of them were good and caring landlords and agreed that we would only be penalizing them. Councilman Greenhoe stated that there were no slum landlords present, and that if the City did adopt the proposed Ordinance it would only be hurting the good landlords. Councilman Greenhoe stated that he also had issues on whether or not there would be fees. Mayor Platte stated that he was against any fees being associated with this. Councilwoman Brown stated that she was hearing Council say that there would be no fees now, but what would happen in the future.

Councilman Harri stated that he felt comparables could be gotten from City's close in size and proximity to the City. Councilman Harri stated that he felt the proposed Ordinance would cause a financial hardship to landlords and was unfit in its interpretation.

Councilman Greenhoe stated that he felt the City was dealing with two separate issues, one being the property code and the adoption of the International Property Maintenance Code; and the second being the Registration requirement.

Councilman Letarte stated that the City was in a unique situation that a majority of the homes in Eaton Rapids were over 100 years old, and to bring these types of rental properties up to Code would not be equitable for the landlords. Councilman Greenhoe stated that it should not matter whether properties were residential or commercial, that if they were sold, then an inspection should be done and the property brought up to Code

before the sale.

Building Inspector Hill stated that the problem was with the current foreclosures on property in the City, that many homes were being sold to landlords for \$4,000 to \$5,000, and that they were not having any work done to them and just being turned into rental properties, which were unsafe.

Mayor Platte stated that he felt that Council should come up with something that does not penalize people who are doing it right, but need to address the problem properties. Mayor Platte stated that if the current Code works, then use it and start enforcing it.

Attorney Erickson stated that the two issues that were presented by Councilman Letarte were issues that could be addressed under the current Code. Councilman Letarte stated that the current Ordinance is not being enforced, and it is part of the Good Old Boys network. Councilman Letarte stated that by putting the proposed Ordinance on the books would just be another example of having a bunch of rules that were not being followed, and to use the tools that we have now and are available.

Attorney Erickson stated that the existing property maintenance code was alright, but it would be his advice to have Council adopt the International Property Maintenance Code as it was more thorough.

Councilman Letarte asked Attorney Erickson to look at the current Code and find problems regarding unsafe conditions, and if these issues were in fact enforceable. Building Inspector Hill stated that they were in fact enforceable, but he had not been doing this as he felt that Council would not back him up if he issued violations. Councilman Letarte stated that if there were a life threatening situation then it needs to be addressed.

City Manager LeFevere asked if he was hearing Council correctly in that they wanted the Building Inspector to start enforcing the Ordinance that was currently on the books. City Manager LeFevere stated that this had all started back in January when the City was just making Council aware that they planned on starting to enforce these issues and Council had stated that they did not want this done. City Manager LeFevere stated that currently the Housing Ordinance, Chapter 12, already gives the City the authority to do this, and is this what Council now wants done.

Councilman Letarte stated that Council had never said they did not want this enforced, but was just questioning on how this would be implemented. City Manager LeFevere stated that Chapter 12 of the Code gave the guidelines on how this would be implemented and asked if it was Council's desire to start having this enforced with what was currently on the books. It was a consensus to start having the current Ordinance

enforced.

Councilman Letarte asked what this would look like, would the Building Inspector start

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going to homes to find out problems beforehand or after the fact. Councilman Harri asked what type of criteria or steps would be followed.

Mayor Platte stated that the mechanism could be the Police, Fire, Building Inspector or citizens reporting violations to the City and then the Building Inspector following up on the calls.

Councilman Letarte asked if this was going to be set up as intrusive or non-intrusive. Councilman Letarte stated that he felt it was illegal for him to enter property without the proper warrant.

Attorney Erickson stated that the Building Inspector is an Agent of the City; that the Building Inspector has the right to enforce Article 12 and it is his duty to do so and that he would not need permission to do so, but it would always be his advice to give the owner and the occupant notice. Attorney Erickson stated that at that point if the Building Inspector was denied access, then the City would need to get a Court Order to do the inspection. Attorney Erickson stated that Chapter 12 is a law on the books and that the City is duty bound to enforce that Ordinance and that the Council cannot put the existing law on hold unless they approve a moratorium to do so.

Mayor Platte stated that with this information Council has no authority to stop the Building Inspector unless a moratorium is passed. City Attorney Erickson stated that this was correct. Councilman Harri stated that Council looking at different options has nothing to do with the Building Inspector putting the enforcement issue job on hold.

Mayor Platte stated that Chapter 12 needs to be enforced, not put on hold, and that information needed to be given to Council on what mechanism would be used.

Attorney Erickson stated that Chapter 12 was drafted while he was the City Attorney, but still feels that it is not as thorough as the International Property Maintenance Code. Attorney Erickson stated that the IPMC is more technical and has a better mechanism for enforcement and was a much better vehicle from his viewpoint.

Building Inspector Hill questioned whether the City has already adopted the IPMC, as the current Code that the City operates under references the International Property Maintenance Code. Attorney Erickson stated that he would have to look into this further, but he felt that it should probably be adopted directly. Mayor Platte asked if this could be looked into and reported back to Council.

Councilwoman Brown stated that the enforcement was definitely under Article 12. Mayor Platte stated that this was correct and it did not require Council support. Building Inspector

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Hill stated that before he started enforcement he would want to know that he has the support of the Council.

Councilman Letarte stated that he felt that Residential Homes and Apartments/Rentals should be enforced equally.

City Manager LeFevere stated that it would be the intent of the City to start out with inspections on single family dwellings that were being used as rental properties, and that this would be the focus to start out with due to safety issues. Councilman Letarte asked what the difference was. If the intent was safety then why differentiate.

Mayor Platte stated that there is a difference in that rental properties are a business. Councilman Letarte stated that if a tenant was in a situation that they were not happy with, then this was a private issue and the tenant always had the ability to move if they did not like it. Mayor Platte stated that he disagreed, that tenants were having to live in substandard housing because of what was affordable due to current economic situations.

Attorney Erickson stated that the Michigan Housing Law provides provisions on how Inspections can be staggered, and he would give Council and the Building Inspector a copy of this. Attorney Erickson stated that then it would be up to the Building Inspector to administer and enforce, but that he would need to follow the guidelines provided and that it would not be done arbitrarily, and that some type of methodology would be followed.

Councilman Letarte stated that he felt that Council should further discuss this at another worksession on how this was going to get carried out.

City Manager LeFevere stated that Chapter 12.5, Article II and 12.14 explains this, and this is where the Building Inspector will start, and that single family rental properties will be first, but this information will be put together in detail and will be sent out in an email. Councilman Letarte stated that he felt a presentation was needed. Mayor Platte stated that Administration should move forward, and that an email with the breakdown would be sufficient.

Other Business:

None.

Public Comments:

Lynn Ball, a builder in the community, appeared before Council regarding conflicts with the Building Code and BOCA.

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Rick Teel, a landlord in the community, appeared before Council regarding the proposed Ordinance and the fees. City Manager LeFevere stated that there were no fees associated with this whatsoever.

Lynn Ball, appeared before Council regarding new construction in town and issues being enforced above and beyond what was called for and costing him extra money.

Dick Teel, a landlord in the community, appeared before Council stating that he has been in the rental business since 1960 and what used to be done is when an apartment became vacant, an inspection would be done before a new tenant could be moved in, and this seemed to work and eliminated issues.

Marilyn Stenberg, a landlord in the community, appeared before Council and stated that the proposed Ordinance was overkill and would be a bookkeeping nightmare, and felt that the existing Ordinance was sufficient.

Reuben Green, 630 Forest Street, appeared before Council stating that he agreed with Ms. Stenberg, and that all citizens have a right to complain and report violations to the Building Inspector.

Reports:

Police Chief Malewski reported on the following: that the Safe Prom Initiative will have a Council Resolution on the April 12th Agenda; that he will be starting the junk vehicle enforcement; that he needs guidance on the yard parking Ordinance; and that on Friday his Department was involved in a pursuit with the County and the State.

Closed Session:

Councilman Greenhoe moved Council go into Closed Session for consultation with the City Attorney to review Attorney Client Privilege information; seconded by Councilman Harri. Council went into Closed Session at 7:05 p.m.

Councilwoman Brown moved Council reconvene back into Open Session; seconded by Councilman Greenhoe, passed unanimously. Council reconvened back into Open Session at 7:37 p.m.

Councilman Harri moved Council approve the Contract with Parsons Brinckenhoff on the DNRE Issue at the old landfill, in an amount not to exceed \$10,826.00; seconded by Councilman Letarte, passed unanimously.

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Councilman Greenhoe moved Council go into Closed Session to review pending litigation with the City Attorney; seconded by Councilwoman Brown, passed unanimously. Council went into Closed Session at 7:38 p.m.

Councilwoman Brown moved Council reconvene back into Open Session; seconded by Councilman Harri, passed unanimously. Council reconvened back into Open Session at 8:15 p.m.

Mayor Platte reviewed with Council the resignation of City Manager LeFevere effective on April 30th, and what Council needed to do to fill this vacancy. It was the consensus of Council for the Mayor to contact the Michigan Municipal League to set up meetings to have them start the Executive Search.

The meeting was adjourned at 8:32 p.m.

Steven G. Platte, Mayor

Kristy Reinecke, Clerk