

**CITY OF PARK RAPIDS**  
**REGULAR MEETING**  
**PLANNING COMMISSION**  
**FEBRUARY 22, 2016, 6:00 p.m.**  
**Park Rapids Library, 210 First Street West – Lower Level**  
**Park Rapids, Minnesota**

**1. CALL TO ORDER:** The February 22, 2016, Regular Meeting of the Park Rapids Planning Commission was called to order at 6:00 p.m.

**2. ROLL CALL:** Present: Commissioners Dick Bradow, Joel Vorhes, Nels Peterson and City Council Member Paul Utke. Absent: Dick Rutherford. Staff Present: City Planner Ryan Mathisrud and Planning Assistant Carmen L. Lockhart. Others Present: Lowell Wolff and Katie Warmbold.

**3. APPROVAL OF AGENDA:** A motion was made by Vorhes, seconded by Peterson, and unanimously carried to approve the following agenda as presented.

**4. APPROVAL OF REGULAR MEETING PLANNING COMMISSION MINUTES OF JANUARY 25, 2016:** A motion was made by Vorhes, seconded by Peterson, and unanimously carried to approve the January 25, 2016 Regular Meeting Minutes as presented.

**5. PUBLIC HEARING:**

**5A. ORDINANCE AMENDMENT OF THE CITY CODE OF ORDINANCES OF THE CITY OF PARK RAPIDS – CHAPTER 153 SUBSURFACE SEWAGE TREATMENT SYSTEMS – PROPOSED AMENDMENTS CHAPTER 153.028 A 7 COMPLIANCE INSPECTION AND CHAPTER 153.0281 TRANSFER OF PROPERTIES; REQUIRING THE INSPECTION OF SUBSURFACE SEWAGE TREATMENT SYSTEMS PRIOR TO A QUALIFIED PROPERTY TRANSFER:**

Mathisrud provided a power point presentation regarding adding a point of sale provision to our SSTS Ordinance Chapter 153 upon the transfer of properties. Mathisrud provided some background: On September 11, 2014 the City was asked by the MPCA to bring our SSTS Ordinance into compliance and the City did that which was approved by the City Council on July 12, 2015 and at that time the City Council instructed the Planning Commission to study and prepare a Point of Sale provision and bring an ordinance to them with a recommendation. Mathisrud explained over the last six months staff studied the current SSTS, the existing conditions of septic systems in the community and also the impact of the ordinance on the community. The real estate community was invited to give comments on a draft of the ordinance.

Mathisrud advised that looking at the City's 2008 Comprehensive Plan, Environmental Goal #1 is to continue to maintain and improve all community facilities and identify future needs with one call out to be to serve existing neighborhoods with paved streets and utilities where feasible. What we found is that not every parcel in the city is likely to get city services so we need to address properties that aren't going to have utilities sent to them. One of the goals is to promote conservation and enhancement of our natural resources and environmentally sensitive areas within and adjacent to Park Rapids and to protect the long-term environmental health of the community by promoting an ethic of environmental stewardship. The task for staff is to protect the environmental characteristics to ensure the quality of place for the City. Mathisrud commented these goals are broad in their scope and it doesn't state exact policies to create or implement.

Mathisrud explained that our current ordinance basically uses triggers to require septic system inspections to be completed which is recognized as a Certificate of Compliance and this happens through a standard process that is regulated by the state. We currently require a Certificate of Compliance when a permit is required to repair, modify or upgrade a current septic system; when there is an addition, alteration or expansion of the use of the building, including adding bedrooms; when there is a change in use on the property like going from residential to commercial; during area wide SSTS surveys that are completed by the city; and after receiving a valid complaint. The question is: Is that enough to ensure that systems are operating correctly in the community. Staff did research and found 156 septic systems operating as of December 15, 2015; 45 were in Discovery Circle which is a project in the Capital Improvement Plan which is scheduled for 2017; only 9 of the remaining 111 systems had current Certificate of Compliance; there is one failing system in the records; 66 properties do not have any documentation of inspections being completed since installation. Approximately half were involved in property transactions in the last 15 years and that was by doing a random survey of existing systems.

Mathisrud explained that the proposed ordinance is an additional trigger for another inspection of these systems and would require the seller disclose to the buyer as well as the City, the current condition of the system and they do this by providing that completed form. If the system is compliant the transaction proceeds normally, and if not compliant additional steps are taken for repair or replacement of that system.

The proposed ordinance is structured that at that time of property transfer four requirements must be met:

1. A compliance inspection be performed within the last three years.
2. Inspection has to be performed by a licensed individual qualified to do septic system inspections.
3. Must disclose the condition to the buyer.
4. If a certificate cannot be provided then the buyer and seller have to create an escrow account with funds available to complete the upgrade.

There are exceptions written into this ordinance and there are going to be

instances where this doesn't apply which is when there are no buildings or septic located on the parcel being sold; if the transfer doesn't require the filing of a Certificate of Real Estate Value; if the transfer is a tax forfeiture; a contract for deed entered into before the adoption of the ordinance; if the buildings are connected to city sewer; court rulings for wills, probate, divorce, estate settlements, etc.; and those quiet title actions and when there is no tax required on the transaction.

There is an exception during winter months when conditions don't allow the inspection to be completed and a winter agreement can be made where the inspection can be completed the following year and if found noncompliant that would trigger an escrow agreement. We removed language that showed dates during the winter months as there was concern from the real estate community that could have issues with their transaction so we left that broad with more flexibility. The responsibility for completing the upgrade must be in writing between the two parties and at the time of recording, the seller shall provide documentation that all of these have occurred which is done on a city form to be completed by the parties. If this is not occurred, it shall constitute a misdemeanor against the seller as well as all appropriate costs associated with bringing the system into compliance.

Transactions will be monitored and complete enforcement to appropriate parties to ensure compliance. Mathisrud advised we cannot prevent the recording of the transaction so there will be follow up work for staff to do to ensure compliance.

Commission Discussion Points:

- Why all septic systems weren't monitored in the past? They are done when triggers are met.
- How many systems need to hook up that are within 200 feet which are over the 3 year period for mandatory hookup? There are a handful of properties where letters need to be sent to them.
- The history of Discovery Circle properties and what if the project doesn't happen again in 2017? It will be a joint decision between the residents and the city.
- Houses being sold with financing in the secondary market, lenders are requiring compliant systems.
- There was further discussion on identifying properties with septic and enforcement issues.
- Not stepping into the sanctity of a contract.
- Discussion on property owners providing a Certificate of Compliance every three or five years because if a house never sells for long periods of time there is no trigger.

Peterson argued the point of sale violates our Comprehensive Plan because it talks about unity and spirit and stewardship and we are not promoting community unity and spirit with a point of sale and instead we are being intrusive by going into the center of a private buyer and seller contract so I think we are in violation of something with the first question of the Findings of Fact – is the zoning amendment consistent with the

Comprehensive Plan, and I can't find a way to say yes. The only way I can answer that is by saying no, it's not consistent.

Mathisrud explained our Comprehensive Plan is written to be very general so there aren't step by step work plan listed in there.

There was further discussion concerning the City receiving Certificate of Compliance Inspections when completed. It was clarified that the Disclosure of Septic Information is required by the State at the time of a sale but not a Certificate of Compliance, but that the lending institutions require a Certificate of Compliance to know the septic is up to date.

There was discussion concerning the fact that the County Recorder cannot delay recording a transaction because of a septic compliance.

**The Public Hearing was opened at 6:41 p.m.**

Katie Warmbold commented that septic inspections don't test whether the system itself works, it tests whether it is county or city compliant and so those compliances will always have all of the things in it needed for a septic to work. I know of two systems that had a compliance on record that ended up not working for whatever reason, the grade wasn't correct or something like that so I would like to point out that difference – that having a septic compliance on file doesn't always mean that the septic isn't going to fail very soon after closing.

**The Public Hearing was closed at 6:43 p.m.**

**The Findings of Fact were reviewed. The commissioners came to the following conclusions:**

1. *Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? YES for all Commissioners except Peterson who answered NO.*
2. *Have there been changes in the character of the development in this vicinity? N/A (Not Applicable) for all Commissioners.*
3. *Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? NO for all Commissioners except Peterson who answered YES.*

**A motion was made by Vorhes, seconded by Peterson, and unanimously carried to recommend to the City Council Denial of the proposed Ordinance Amendment of the City Code of Ordinances of the City Of Park Rapids – Chapter 153 Subsurface Sewage Treatment Systems – Proposed Amendments Chapter 153.028 A 7 Compliance Inspection and Chapter 153.0281 Transfer of Properties as presented.**

**6. INFORMATIONAL/DISCUSSION:**

**6A. FENCE ORDINANCE REVIEW:** Mathisrud provided proposed language for addition to the existing ordinance:

(I) Fence material used shall be of common residential fence material and shall not consist of salvaged materials i.e. Pallets, tires, doors, plywood, tarps etc.

(J) Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

(K) Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

There was discussion concerning:

- Removing the word “treated” and using “resistant” in (F) as cedar is a common material but is not treated;
- Requiring a permit for fencing and a \$25.00 fee;
- Where to draw the line with artistic type fencing, sculpture, and complaints;
- Possibly allowing higher fences around garden plots only to deter animals;

**6B. DOWNTOWN PLAN UPDATE PROPOSAL:** Mathisrud explained we have a 2018 Comprehensive Plan Update scheduled in the CIP and as part of that I would like to update and add some things to it. What was asked of me was potentially updating the Downtown Plan – East Downtown that was put together in 2008. Hubbard County Economic Development asked me to look at this to see if it was appropriate to update this master plan. When the plan was done, it laid out a plan for Main Street and then drew out what we would like the future of the downtown area to look like. There was a lot of community support, buy in and surveys going out. Subsequently Collins keep asking about this plan and how we are doing at implementing this plan. There are several different concepts put together for various neighborhoods but Collins is asking us to work with them on updating the 3<sup>rd</sup> Street Promenade which includes the middle school apartments over to the river as to the preferred concept for redevelopment in that neighborhood and some of the costs associated with doing that. Collins has solicited bids from RDG Planning Design which was the same consultant that originally worked on the Downtown Plan. What is being proposed is redeveloping this area as the middle school is interested in selling a portion of that property and also developing some areas towards the river that is up for redevelopment. The HRA may potentially be interested in doing some work in the future and we know there are some developers in the area

interested in making an investment in the Park Rapids area so the thought is that it would be a good time to look at this plan, what the market is in the community and what could potentially be successful in this area? Mathisrud said his question for the Planning Commissioners is whether this is worth pursuing? In the bid the cost is \$17,000.00 and how it is proposed to be structured is that several organizations would pick up a piece of that in order to pay for this plan so it would be done through partnerships and working with several groups to put together the plan update and figure out a strategy for implementation which would be included in the scope. What should be included in the plan? What do we need to know and is it worth pursuing? The commissioners inquired what the city's share of the \$17,000 would be? Mathisrud stated approximately \$2,500.00.

Utke stated you highlighted things that were talked about for many months and even years at the EDC trying to figure out what to do with that area and what could our community support in that area and then what does it take to make it work? Mathisrud stated what he has found in these types of master plans for neighborhoods you can put together a cool plan and if people rally around it you can implement those plans but that's not realistic in all communities and some have to develop partnerships and work with other organizations that are ready to make an investment and coordinate those investments to make a larger project happen. The intent of this is to leverage several organizations, put together work in planning a redevelopment scenario and then try to get buy in from local developers, community members as a whole and to figure out how to implement it. Utke stated to determine the needs of the area and what the area can support as we can have all the neat things drawn on paper that we want but what could actually make it? Vorhes agreed, what is sustainable? Utke said investors want the same data that this study could provide so we are ready to work with developers and investors and do something positive. Vorhes questioned how much appetite there is for a lot of money to be coming from the city tax base as when the Century School was built it was very difficult and if we were to suggest putting the library there that wouldn't necessarily fly. Peterson suggested a new city administrative office in conjunction with a library. Utke stated that hasn't been on the drawing board.

**A Motion was made by Peterson, seconded by Vorhes, and unanimously carried to recommend to the City Council approval of supporting the updating of the Park Rapids Downtown Plan Update – East Downtown as presented through RDG and the Hubbard County Economic Development Commission.**

**7. ADJOURNMENT: A motion was made by Vorhes, seconded by Peterson, and unanimously carried to adjourn the meeting at 7:19 p.m.**

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Chair Dick Bradow

ATTEST:

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Carmen L. Lockhart  
Planning Assistant