

PROCEEDINGS OF THE CITY COMMISSION
CITY OF EAST GRAND RAPIDS

Regular Meeting Held February 18, 2013

Mayor Seibold called the meeting to order at 6:04 p.m. in the City Commission Chamber at the Community Center and led the audience in the Pledge of Allegiance.

Present: Commissioners Dills, Goebel, Graham, Johnson, Miller, Skaggs and Mayor Seibold

Absent: None

Also Present: City Manager Donovan; City Attorney Huff; Public Safety Director Herald; Public Works Director Feldt; City Clerk Brower

2013-17. No public comment was received.

2013-18. Commissioner Skaggs announced the passing of EGR resident Henry Pestka last week and offered condolences to the family.

Commissioner Dills thanked the Public Works Department for their work keeping the streets and sidewalks clear during the snowy weather of the last few weeks.

Mayor Seibold echoed the appreciation for the Public Works crews and stated roads are always better in East!

2013-19. City Manager Donovan reviewed the quarterly financial report for the period ending December 31, 2012. He noted the General Fund ending balance is projected to be nearly 24% of annual expenses, which is a very good level. The Water/Sewer Fund is meeting projections, while revenue is declining in the Major/Local Street fund due to lower revenues from the State.

2013-20. Consider request to approve a consent judgment settling the pending litigation regarding the land division at 2801 Lake Drive.

City Attorney Huff outlined the terms of the agreement, including provisions that the house is moved by September 1, 2013, that the stormwater plan be implemented by October 1, 2013, that all local ordinances are met, and that easements will be recorded and sent to the City before a Certificate of Occupancy is issued. Mr. Huff stated that if the plaintiff defaulted on the agreement, the City could step in. He also noted if requirements were not met, the lot split would be nullified and a new land division would be needed in the future.

Mayor Seibold opened the meeting for public comment. The following comments were made:

- Linda Raubolt, 2735 Woodcliff Circle Voiced a list of complaints about Mr. Kruer's character and the current situation and vowed to call the City complaining of any inconvenience caused to her by the relocation of the Kruer house or the construction of the new homes.
- Larry Robson, 2765 Woodcliff Circle Felt it was odd that a 6-1 vote denying the variance was now being overturned by a lawsuit and felt the City should have anticipated this. Stated it would be detrimental to the neighborhood if spec homes were constructed on these lots.
- Jeff Olsen, 1112 Eastwood Overall a positive thing for East Grand Rapids.

A. Graham-Johnson. That a consent judgment settling the pending litigation regarding the division of land at 2801 Lake Drive be adopted as set forth in Exhibit "A" attached hereto.

Commissioner Graham stated the agreement was the best solution for the neighbors and for the City. He noted the court was supportive of the concerns raised by the City regarding the completion of the project and the agreement spelled out the requirements and the consequences for not meeting those requirements.

Commissioner Dills also felt the agreement was the best solution. He stated he voted against the original land division request because of the lack of control over the moving of the house, but was more comfortable now that the court had spelled out the solutions. He reiterated earlier comments that once the house was relocated, the parent parcel and resulting lots would meet all local zoning ordinances.

Commissioner Skaggs stated he respected the process and the comments of his fellow commissioners, but concurred with the concerns of the neighbors about the impact to the neighborhood. He noted Section 5.406 gives the City Commission discretion regarding the consistency and harmony of the area, and the proposed Lot C was only 57% of the average lot size. He further noted that if you exclude the south side of Hall Street, Lot C was even more undersized. He understood there were risks in proceeding with the lawsuit, but felt it would be worth it to get the clarity of a legal decision. He encouraged the City Commission to look into ways to defend the unique character of East Grand Rapids neighborhoods.

Commissioner Miller supported the consent judgment, but shared the concerns of the neighbors. He stated he could not in good conscience vote against something he was not sure could be defended in a court. He agreed with Commissioner Skaggs that the character of the neighborhoods should be preserved.

Mayor Seibold stated prior court decisions have influenced the decision to work out the consent judgment. She noted that neighborhoods are more than one block, so when the surrounding area was considered, the only argument that could be used against this land division was the way the house was situated on the lot. The consent judgment will oversee the relocation of the house, and once this is completed, it would be difficult to say the criteria of the ordinances are not met. She stated this decision was a balance of private property rights and the rights of the city and the citizens. She also noted that in many cases, the majority of the land belonging to each home was in the rear yard behind landscaping and fencing where it was not seen, and sometimes the smaller lots were not any more noticeable than the larger lots, and these two new lots may not be noticeably smaller when viewed from the street in relationship to other homes. She felt the agreement addressed the concerns of the commission in denying the original land division.

Yeas: Dills, Goebel, Graham, Johnson, Miller and Seibold – 6
Nays: Skaggs – 1

2013-21. A zoning variance hearing was held regarding the request of Paul Tate of 1635 Wealthy to allow the construction of a detached garage with a side yard setback of 1.1' instead of the required 3.0,' and a rear yard setback of 1.2' instead of the required 3.0'.

Public Works Director Feldt outlined the request to replace a dilapidated garage with a slightly larger structure with the same setbacks on the side and rear.

Mayor Seibold questioned whether shared driveways and garages so close together created problems between neighbors or for the City. Mr. Feldt stated there were very few problems that he was aware of because most neighbors understood the situation when they purchased their home.

Paul Tate, 1635 Wealthy, was present to explain the request. He noted wished to build the garage with the same side and rear setbacks as the old garage to maintain as much of the small back yard as possible.

Mayor Seibold opened a public hearing. The following people were present to express their opinions:

- Tom Laureto, 365 Rosewood Fully supported the request.

The following communications were received at City Hall concerning this variance request:

- Andrea & Peter Claus, 344 Gladstone In Favor.
- Jim & Barb Davis, 338 Gladstone In Favor.
- Kelly O'Hara, 1654 Wealthy In Favor.
- Robert & Marilyn McCoin, 1631 Wealthy In Favor.
- Matt Feyen, 1577 Wealthy In Favor.

- Petition signed by 22 residents of the area In Favor.
- Tom Laureto, 365 Rosewood In Favor.

No other public comment was received. Mayor Seibold closed the public hearing.

- A. Dills-Skaggs. That the request of Paul Tate of 1635 Wealthy to allow the construction of a detached garage with a side yard setback of 1.1' instead of the required 3.0,' and a rear yard setback of 1.2' instead of the required 3.0' be approved.

Commissioner Dills stated he understood the limitations of the small lots and was not opposed to the variance.

Commissioner Skaggs agreed and commended the applicant for taking the time to speak with so many of his neighbors about the project.

Commissioner Graham stated he had looked at the present configuration and felt there was sufficient room between the two structures to allow future maintenance.

Commissioner Johnson supported the request as it would be difficult to have any rear yard with a 40' wide lot.

Yeas: Dills, Goebel, Graham, Johnson, Miller, Skaggs and Seibold – 7
Nays: -0-

2013-22. Decision on Spring Break meeting

- A. Miller-Goebel. That the meeting currently scheduled for Monday, April 1, 2013 be rescheduled for Monday, March 25, 2013 at 6:00 pm to avoid conflict with Spring Break.

Yeas: Dills, Goebel, Graham, Johnson, Miller, Skaggs and Seibold – 7
Nays: -0-

2013-23. Johnson-Skaggs. Motion to approve the consent agenda as follows:

- A. Minutes of the regular meeting held February 4, 2013.
- B. Payroll disbursements of \$197,263.85; county and school disbursements of \$84,674.46, and total remaining disbursements of \$142,017.48.
- C. The payment of additional costs for the Public Safety records management system consisting of licensing and maintenance from Core Technology of Lansing in the amount of \$10,150.00 and from Iyetek Law Enforcement Software Solutions of Kalamazoo in the amount of \$5,700.00, and approval of a related budget amendment of \$15,850.00 from the General Fund Ending Balance.
- D. The preliminary minutes of the Parks & Recreation Commission minutes held December 10, 2012.

Yeas: Dills, Goebel, Graham, Johnson, Miller, Skaggs and Seibold – 7
Nays: -0-

The meeting adjourned at 6:46 p.m., subject to the call of the Mayor until March 4, 2013.

Karen K. Brower, City Clerk

Attachments: A – Consent Judgment regarding 2801 Lake Drive.

Attachments listed above are available for inspection at the office of the City Clerk.