

PROCEEDINGS OF THE CITY COMMISSION
CITY OF EAST GRAND RAPIDS

Regular Meeting Held November 18, 2013

Mayor Seibold called the meeting to order at 6:00 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 Attorney Huff; City Manager Donovan; Public Works Director Feldt; Finance Director Mushong; Public Safety Director Herald; City Clerk Brower; Zoning Administrator Faasse; Planning Consultant LeBlanc

2013-127. No public comment was received.

2013-128. Commissioner Dills thanked all who voted for him in the recent election and looked forward to serving residents for a second term as commissioner.

Commissioner Miller thanked the Public Works employees for their work cleaning up after the recent windstorms.

Mayor Seibold also thanked the crews who worked during the storm. She noted there was very little damage and only a few remaining homes without power.

2013-129. Appeal of sewer back up claim.

Andrea Scott of 1145 Plymouth was present to appeal the Finance Committee's denial of a claim for damages that occurred on April 18, 2013. She stated the home sustained over \$46,000 in damage from the sewage-tainted water that flooded her home and they had been unable to use the basement of their home since the flooding. She argued the flooding was not an Act of God alone as there had been a history of sewer backups in this area even after the City's sewer improvements. She stated the City was aware that many footing drains were connected to the sanitary sewer system and had done nothing to require those homes to disconnect the drains to lessen the flooding.

A. Dills-Goebel. To deny the claim of Zachary and Andrea Scott of 1145 Plymouth in the amount of \$47,298.76.

City Attorney Huff stated the definition of an "Act of God" was a natural event with limited frequency and that case law supported this definition.

Mayor Seibold stated that while the historic rainfall in April caused widespread flooding, there were very few reports of sewage backups in East Grand Rapids. She attributed this to the improvements the City made in many areas of the city in the 1990's. Mayor Seibold stated the City has investigated the situation and concluded there is no known exception to the governmental immunity statutes. She agreed the situation was extremely unfortunate, but it was not due to a defect in the city's sewer system and was out of the City's control. She supported the motion to deny the claim.

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

Nays: -0-

- 2013-130. Final Reading of an ordinance amendment to Chapter 50 of Title V of the City Code pertaining to the zoning ordinance.

City Manager Donovan explained all the provisions of the city's zoning ordinances had been reviewed and revised over the last year and were now in front of the City Commission for final approval.

Because of the public interest in the proposed waterfront regulations, Public Works Director Feldt gave an overview of these provisions and how they would affect existing structures and new construction. He stated a vegetative buffer would be required if new buildings or impervious surface over 100 square feet were constructed within 50' of the ordinary high water mark. An exception is included for walkways along the shore. He showed a geographic map and explained the measurement lines. The goal of the new language is to protect water quality by reducing runoff from structures and filtering remaining runoff through vegetation.

Mayor Seibold reopened the public hearing. The following people were present to express their opinions:

- AJ Birkbeck, 2093 Robinson (GR Twp) Representing his parents. Draconian ordinance interferes with property rights and goes too far. Submitted petition with 35 signatures in opposition of the waterfront regulations. Dirt road portion of Reeds Lake Blvd subject to two sets of setbacks, high water mark is too restrictive, Planning Commission added too many restrictions. No allowances for handicap accessibility. Required vegetation would block views and be expensive. Not aligned with DNR recommendations. Would prevent beaching of small boats, storage of docks and placement of furniture and firepits. Stated the largest contributor of polluted stormwater is the city storm sewer and City should concentrate efforts on this problem instead of unduly burdening lakefront owners. Suggested making everyone in the city construct a buffer to filter water before it enters the street. Asked for scientific information on runoff from decks. Cited Supreme Court cases and suggested new regulations created a taking of property requiring compensation.
- Tom Vacchiano, 2951 Bonnell Asked for better language spelling out how existing seawalls, barns, boat launches and fencing can be maintained and/or replaced over time.
- Don Condit, 2555 Frederick Felt restrictions were well intentioned but onerous and heavy handed. Upset about late notice of hearing and asked for more discussion. Regulations were ineffective because of other pollution.
- Chris Muller, 1950 & 1990 Robinson Felt homeowners can proactively embrace water quality efforts without restrictions such as the buffer zone. Stated city would have to revise its logo to eliminate the view of the lake if lakefront owners have to put in buffer strip.
- Janet Chism, 330 Plymouth Has been told many times that Fisk Lake is a private lake and as such the city has no jurisdiction. Has made improvements on her own and doesn't need laws to tell her what she should be doing. Wants to rebuild historic gazebo on her property. What about tennis courts and hockey rinks?
- Katie Karczewski, 2607 Frederick Her home sits very close to the water and this would significantly affect her. New rules will devalue property and prevent people from wanting to buy lakefront. Will eventually impact city revenue.
- John Loeks, 652 Manhattan Felt the many seawalls make buffer zones ineffective. Overly restrictive ordinance displays lack of confidence in residents and is unnecessary.

- Mike Mraz, 333 & 518 Lakeside Part of the Fisk Lake Homeowners Association and feels people take excellent care of their properties and do not need additional regulations. Buffer requirement will impact future values and create a restrictive covenant that equates to a taking of property.
- Mike Meiresonne, 2096 Robinson Stated overland runoff of rainwater from roads was a much larger problem than runoff from small lakefront buildings. Showed drawings of watershed area, standing water on his driveway and pollution statistics from outboard motors.
- Eileen DeVries, 325 Lakeside Asked if she could replace an existing garden shed. Feared adding more vegetation would increase breeding areas for mosquitos which spread West Nile disease.
- Dave Mehney, 3049 Mary Felt pollution was coming from other sources. Offended that regulations have been tightened since early drafts and lakefront owners were not notified of meetings. Wanted to be compensated if city assumed control of his property rights. Felt city should look elsewhere to control pollution.
- Ray Loeschner, 2565 Frederick Is considering some plantings along the water but feels these rules are too much. Ordinance came about too quickly; slow down and spend time with the people involved. Upset about lack of notice to owners. Table the issue and rewrite; don't adopt now and deal with problems later.
- Katie Karczewski, 2607 Frederick Felt lake traffic and outside visitors should be regulated and charged a fee to enjoy the lake. Lots of lawsuits waiting to happen for unmarked obstacles in the lake and outside boaters being negligent.
- Dave Mehney, 3049 Mary Process should have been more open to residents and not secretive.
- Janet Chism, 330 Plymouth Asked Commission to vote no and defeat the ordinance. Stated city spent more time and money to mail trash violation notices than something this important.
- Gordon Jones, 325 Rosewood In favor of the proposed lakefront regulations as a small step in improving lake quality. Stated the buffer does not have to be 6' wall of trees; low plants would suffice. Felt City did a good job of this with Hodenpyl and Waterfront Park and urged continuation of efforts at Collins Park to filter runoff and repel geese. Remains concerned about large homes being rebuilt on small lots with reduced setbacks and tall pitched roofs. Asked Commission to tighten restrictions on smaller side yards and eliminate percentage reduction formula for nonconforming lots.

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

Mayor Seibold questioned which changes have been made since the initial public open house on this issue. Planning Consultant Paul LeBlanc stated small wording changes were made for clarity, an allowance for walkways was added, but nothing was made more restrictive.

City Attorney Huff stated Fisk Lake was considered a private lake because there was no public land or public access. As such, public funding for treatment was limited. He further noted that East Grand Rapids does not regulate access to or traffic on Reeds Lake and that Kent County patrols the lake and enforces boating regulations. City Manager Donovan added that the Reeds Lake boat ramp was funded by the State of Michigan, but the city operates the ramp.

- A. Johnson-Dills. That an ordinance amendment to amend Chapter 50 of Title V of the City Code pertaining to the zoning ordinance be adopted as set forth in Exhibit "A" attached hereto.

Public Works Director Feldt answered several questions from the City Commission:

- * The ordinance contained provisions for maintenance and repair of any nonconforming structure in the city, allowing for damage repair if less than 60% of the structure did not need to be replaced. If more than 60% is replaced, new regulations would apply.
- * The high water mark was established at 732.2' above sea level (2' below the April flooding level) and would not be revised year to year unless the ordinance definition was changed by the City Commission.
- * Docks were regulated under separate regulations and would not be affected by this ordinance.

Commissioner Skaggs questioned what other steps are taken to reduce pollution from stormwater runoff. City Manager Donovan reported the City has installed three underground chambers to separate pollutants from rainwater, has used porous pavers and woodchips for the boat launch and paths in Waterfront Park, planted a rain garden at Collins Park, and educates property owners on steps to reduce pollution from fertilizer, vehicles and household refuse.

Commissioner Graham commended residents for the work they've done to maintain their properties and improve the health of the lake, but noted the City enacts ordinances to ensure these efforts are continued by everyone if necessary. He expressed frustration that very few people attended the earlier meetings scheduled to receive input and then show up in mass at the last meeting to protest. He agreed there were many valid points presented and wished they had been voiced sooner to allow time for discussion before the scheduled final reading.

City Attorney Huff stated the commission could table the entire 100-page ordinance amendment or could remove the sections in question and adopt the remainder of the ordinance.

Commissioner Dills clarified to those in attendance that the vegetation buffer does not have to be 6' tall and block the view of the lake. He stated low growing plants or even groundcover could be planted that would allow the view of the lake to remain unobstructed.

City Attorney Huff gave his opinion that the regulations would not constitute a "taking" of the property as they do not restrict all use of the land.

Commissioner Dills asked whether the setback and height allowances referenced by Mr. Jones had been part of the review process. Mr. LeBlanc stated they were briefly discussed, but ultimately left the same as the prior ordinances. He cautioned against changing setback or height requirements without considering the resulting creation of many nonconforming structures.

Mayor Seibold assured the residents the City Commission was trying to be good stewards of the lake, not to anger property owners. She felt the City needed to address all areas where lake quality can be improved, not just the big things. She noted that all residential properties are subject to front yard setbacks and these are similar to those setbacks. She also stated that while there have been several public meetings on this issue, she understood the resident's need for more information about the impact of the new rules. She asked those in attendance to be part of the solution by meeting with her soon to discuss the issue further.

- B. Commissioner Johnson amended her motion to remove Section 5.28(D) in its entirety and to remove the language addressing shoreline setbacks from Section 5.70(7)A of the amendments under consideration to Chapter 50, including any references to these sections. Commissioner Dills agreed to this amendment.

Commissioner Johnson noted the best management practices addressing the shoreline are important to the health of the lake, but agreed property rights and the concerns voiced tonight were important as well. She felt some type of regulations should be adopted in the future after meeting with residents.

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

2013-131. Johnson-Miller. Motion to approve the consent agenda as follows:

- A. Minutes of the regular meeting held November 4, 2013.
- B. Payroll disbursements of \$203,170.66; county and school disbursements of \$48,872.97, and total remaining disbursements of \$156,375.33.
- C. The purchase of a speed/radar trailer in the amount of \$8,585.00 from Kustom Signals of Leneka, Kansas.
- D. A resolution adopting the emergency Medical Services Consortium Partnership Agreement as set forth in Exhibit "B" attached hereto.
- E. A resolution agreeing to enter into a grant agreement with the State of Michigan for a "Stormwater Asset Management Wastewater (SAW) grant in the amount of \$402,900.00 to develop a storm and sanitary sewer asset management plan as set forth in Exhibit "C" attached hereto.
- F. Contracts for the following employee benefit coverages: Health care coverage with Symetra as the Stop Loss Carrier, Physicians care as the PPO provider, and ASR Corporation as administrations, and to fund \$1,000 in a Health Reimbursement Account for each eligible employee and retiree as outlined in the Finance Director's memo of November 13, 2013.
- G. Quarterly financial reports for the period ended September 30, 2013.
- H. Preliminary minutes of the Traffic Commission meeting held September 23, 2013.
- I. Preliminary minutes of the Planning Commission meeting held October 8, 2013.
- J. Preliminary minutes of the Parks & Recreation Commission meeting held October 14, 2013.
- K. Preliminary minutes of the Traffic Commission meeting held October 28, 2013. The City Commission took no action on the Traffic Commission's motions to install "No Parking" signs on Lakeside Drive from Greenwood to Lakeside Apartments and to remove parking restrictions along the east side of Lovett. The motions will take effect immediately.

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

Nays: -0-

The meeting adjourned at 7:47 p.m., subject to the call of the Mayor until December 2, 2013.

Karen K. Brower, City Clerk

Attachments: A – Ordinance Amendment to Chapter 50 Chapter 23 regarding the zoning requirements.
B – Resolution adopting agreement for ambulance service consortium.
C – Resolution authorizing a Stormwater Asset Management Wastewater grant application.

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