

PROCEEDINGS OF THE CITY COMMISSION
CITY OF EAST GRAND RAPIDS

Regular Meeting Held July 7, 2014

Mayor Seibold called the meeting to order at 6:03 p.m. in the City Commission Chamber at the Community Center and led the audience in the Pledge of Allegiance.

Present: Commissioners Dills, Duncan, Graham, Miller, Skaggs and Mayor Seibold

Absent: Commissioner Goebel

Also Present: City Manager Donovan; City Attorney Huff; Acting Public Works Director Lark; City Clerk Brower; Zoning Administrator Faasse; Planning Consultant LeBlanc

2014-77. Commissioner Miller thanked all the city employees and volunteers involved in the 4th of July activities.

Mayor Seibold also thanked those involved in setting up, organizing and administering all of the events on July 4th. She stated the fireworks were amazing and the Trail Blazer and parade were so much fun to participate in.

2014-78. Mayor Seibold presented a gift of appreciation to Janyce Huff for her years of service on the Parks & Recreation Commission and on the Traffic Commission.

2014-79. A zoning variance hearing was held regarding the request of David & Carol Distel of 900 San Lucia to allow the construction of an addition to the home creating a front yard setback of 87.0' instead of the required average front setback of 93.1.'

Zoning Administrator Faasse explained the request for an addition to the front of the garage that would encroach slightly into the front yard setback.

Rob Sears of Sears Architecture was present to explain the request and answer questions. He stated the owners wished to add a third stall and enlarge the existing garage.

Mayor Seibold opened a public hearing. The following communications were received at City Hall concerning this variance request:

- Carl & Sharyn Kubek, 920 San Lucia In Favor.

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

A. Graham-Skaggs. That the request of David & Carol Distel of 900 San Lucia to allow the construction of an addition to the home creating a front yard setback of 87.0' instead of the required average front setback of 93.1' be approved.

Commissioner Graham felt the new addition would fit in the space very well.

Commissioner Dills noted the orientation of the home meant the addition will not be in the direct line of sight for other neighbors or stand out along the street. Commissioner Skaggs agreed.

Mayor Seibold explained the new ordinance adds conformity to existing neighborhoods, but means variances may occasionally be needed for projects like this one.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6

Nays: -0-

2014-80. Consider request to approve the relocation of a property line between 2861 and 2883 Bonnell.

Planning Consultant LeBlanc explained the request to adjust the lot line between these two properties. He stated the resulting lots would continue to meet all zoning standards. He suggested the City Commission add a condition to the approval that requires an easement detailing driveway access between the two parcels.

Darrell DeHaan, representative for the property owners, explained the request to relocate the property dividing line with the intention of selling Parcel B in the future. He stated the owners planned to relocate the existing home on Parcel A and to reconstruct the driveway so that no access across Parcel B would be needed.

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

A. Miller-Dills. That the request of Alan & Mary Salmon, owners of 2861 and 2883 Bonnell, to adjust the property line between the two parcels, creating Parcel A (western), 253.2' wide, 2.13 acres with frontage on Bonnell, including an existing home; and Parcel B (eastern), 1 102.4' wide, 1.09 parcel with frontage on Bonnell, including an existing garage, be approved with the following conditions:

1. The split complies with the surveys presented in the land division application; and
2. The relevant deed(s) or land contract(s) be recorded with the Kent County Registrar of Deeds within 90 days of approval.
3. Prior to any property transfer, the applicant must record an easement with the Kent County Register of Deeds detailing access rights for the existing driveway for both properties if the existing driveway was still being utilized.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6

Nays: -0-

2014-81. Final Reading of an ordinance amendment to amend Section 8.61 of Article I of Chapter 83 of Title VIII of the City Code pertaining to fence regulations.

City Attorney Huff explained a new section had been added to the proposed ordinance amendment to create a variance procedure for swimming pool fences. Mr. Huff noted the new ordinance would now allow a fence height of 36" in the front yard and require fences be at least 50% opaque. Mr. Huff further noted the ordinance did not address the use of shrubs, trees or other landscaping as screening for front or rear yards.

Commissioner Skaggs questioned the definition of "natural grade" when determining the allowable fence height. Zoning Administrator Faasse stated that unless the entire lot is raised, the existing overall grade of the property is used.

Mayor Seibold asked for public comment on this ordinance amendment. The following input was offered:

- Miriam Auckerman, 425 Briarwood Thanked the City Commission for addressing this issue.

A. Duncan-Miller. That an ordinance amendment to amend Section 8.61 of Article I of Chapter 83 of Title VIII of the City Code pertaining to fence regulations be adopted as set forth in Exhibit "A" attached hereto.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6

Nays: -0-

2014-82. Introduction of an ordinance amendment to add Section 9.63(L) to Chapter 93 of Title IX of the City Code pertaining to begging and soliciting.

Assistant City Attorney Rysberg reviewed the proposed ordinance amendment that would place basic restrictions on those soliciting any type of funding to ensure the safety of public and/or pedestrians and vehicular traffic. She stated that eight specific behaviors were prohibited, but other solicitations were allowed. Ms. Rysberg explained that soliciting had to be allowed as a freedom of speech, but could be restricted in

certain ways for safety reasons. She stated the ordinance is content neutral and narrowly tailored so as to allow alternate channels of free speech.

Commissioner Skaggs questioned whether school and non-profit groups could still go door-to-door soliciting for their projects. Attorney Rysberg stated the ordinance allowed groups to solicit in neighborhoods or from private property, but stated that if a private homeowner asks the entity not to solicit or places a no-solicitation sign up, then the person or group is prohibited from soliciting at that residence. The proposed ordinance is modeled after Kentwood's ordinance, which has been upheld by both the district and circuit court in Kent County, and was determined to be distinguishable from the James Speet federal case.

Commissioner Duncan asked how this relates to door to door sales and transient merchant licenses. Ms. Rysberg responded that door to door commercial sales still require a permit.

Commissioner Graham asked whether this Ordinance provides blanket permission from the city to solicit. Attorney Rysberg indicated that soliciting remains permitted in areas and circumstances not enumerated under the proposed Ordinance.

Commissioner Graham stated he was not entirely comfortable with allowing people to solicit in residential areas. Ms. Rysberg noted that the City could not prevent every instance and situation as it would restrict an individual's right to free speech.

Mayor Seibold felt this ordinance was a good beginning that would hopefully keep citizens safe without taking away the rights of those who wished to solicit donations.

Commissioner Skaggs asked if sidewalks remain open for solicitation. Attorney Rysberg indicated sidewalks remain open for solicitation, provided the solicitor is not soliciting from an operator or occupant of a motor vehicle, and provided that the solicitation does not fall under the other limited enumerated circumstances.

Mayor Seibold opened the meeting for public comment:

- Miriam Aukerman, ACLU Attorney Stated begging was protected speech as determined by the federal courts and the city effectively prohibiting charitable walks, can drives, and other established activities. She stated there would be serious constitutional concerns with this ordinance. She stated buffer zones were not permitted and people would have no idea where soliciting would be allowed or not allowed. She stated traffic and safety concerns would be controlled with existing laws and not by targeting people asking for help.

- A. Graham-Miller. That an ordinance amendment to add Section 9.63(L) to Chapter 93 of Title IX of the City Code pertaining to begging and soliciting be introduced as set forth in Exhibit "B" attached hereto.

Commissioner Miller questioned whether the language could be revised to more clearly allow school or charitable organizations to collect cans or other donations for their causes. Attorney Rysberg agreed that clarifications could be made to eliminate any potential conflicting language between subsections.

Commissioner Duncan asked if schools would be exempt. Attorney Rysberg stated that rules would potentially apply equally to schools. Certainly schools would still be allowed to conduct fundraising, but theoretically, the ordinance would prohibit individuals or entities from soliciting at schools if they had been asked not to do so. Attorney Huff commented that we must be careful with blanket exemptions, so as to avoid creating an overly broad restriction.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

Mayor Seibold stated the ordinance would be considered again on July 21st. She suggested commissioners send questions or suggestions to the City Attorney's office before the next meeting.

2014-83. Election of President for FY 2014-15.

A. Skaggs-Miller. That Commissioner Graham be elected President of the East Grand Rapids City Commission to assume leadership duties in the absence of the Mayor for FY 2014-15.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

2014-84. Miller-Duncan. Motion to approve the consent agenda as follows:

A. To approve the minutes of the regular meeting held June 16, 2014.

B. To approve payroll disbursements of \$207,979.66; county and school disbursements of \$-0-, and total remaining disbursements of \$353,975.56.

C. Advisory board appointments as follows:

Planning Commission	John Barbour, 2540 Indian Trail Jeff Olsen, 1112 Eastwood	Three-year terms ending 6/30/17
Parks & Recreation Comm.	Brad Andrzejewski, 3105 Bonnell Judith Baxter, 3060 Hall Dirk Buth, 1900 San Lu Rae Richard Sprague, Jr., 2332 Burchard Pam Witting, 1019 Floral Stacey Wykoski, 2311 El Dorado Carol Campbell, 2109 Elmwood	One-year terms ending 6/30/15
Library Commission	Carol Donovan, 2944 Hall Micki Benz, 817 Gladstone Ellen Schendel, 429 Briarwood Joel Schultze, 933 Pinecrest Azizah Hines, 2244 Hall Judy Freeman, 425 Cambridge Christopher Smith, 461 Lakeside	One-year terms ending 6/30/2015
Board of Review	Ann Nowak, 1033 San Lucia Martin Green, 2463 Oakwood Stephen MacGuidwin, 2559 Lake Drive Paul Howland, 2809 Woodcliff Circle	One-year terms ending 6/30/2015
Traffic Commission	Bob Saltsman, 2905 Reeds Lake Blvd Camille Donnelly, 2153 Wealthy Hunter Meriwether, 526 Lovett Laura Roy, 1119 Lakeside Frank Spies, 2122 Tenway	One-year terms ending 6/30/2015
Construction Board Of Appeals	Eric Hughes, 2722 Richards Brian Johnson, 709 Gladstone Nick Nicola, 1035 Wren	One-year terms ending 6/30/2015

D. A resolution adopting revisions to the Kent County Emergency Management Plan as set forth in Exhibit "C" attached hereto.

- E. A contract with the Michigan Municipal League at a cost not to exceed \$12,000 to provide an executive search for the vacant Assistant City manager/Public Works Director position, and approval of a fund transfer from the General Fund ending balance for this expense..
- F. A contract with Prein & Newhof to supply engineering services for the Reeds Lake Blvd. culvert project at a cost of \$39,600.00.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

- 2014-85. Gordon Jones, 325 Rosewood, questioned whether the city would be reintroducing the lakefront buffer zone regulations or if these had been abandoned. He also asked for an update on the work of the historic preservation study group. Mr. Jones reported there was a walnut tree in the northwest corner of Collins Park that needed attention before becoming unsafe to those using the park. He questioned whether ice cream trucks would be subject to any new soliciting ordinance.

Pamela MacDougal, 500 Cambridge spoke in favor of establishing a historic preservation district to protect the homes of East Grand Rapids for future generations. She stated the greatest threat to historic homes was development without preservation planning and urged everyone to do what it takes for the good of the community.

Eric Gollanek, 2036 Burchard, thanked the City Commission for their efforts and for listening to the residents when concerns are raised. He felt the panhandling ordinance proposal seeks to maintain the character of the community and that historic preservation should be given the same consideration.

- A. Graham-Miller. Motion to enter into an executive session to discuss collective bargaining agreements in accordance with Section 8(c) of the Open Meetings Act. A roll call vote was taken.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

- 2014-86. The meeting recessed at 7:11 pm to conduct the Executive Session. The meeting resumed at 7:37 pm.

- 2014-87. Consider request to approve a collective bargaining agreement with the AFSCME Public Works Union.

- . Duncan-Miller. That a three-year contract with the AFSCME Local Public Works Union beginning July 1, 2014 be approved as recommended by the City Manager.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

- 2014-88. Consider request to approve a collective bargaining agreement with the Public Safety Officers Union.

- . Miller-Skaggs. That a three-year contract with the Public Safety Officers Union beginning July 1, 2014 be approved as recommended by the City Manager.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

- 2014-89. Consider request to approve a collective bargaining agreement with the Public Safety Command Union.

- . Graham-Miller. That a three-year contract with the Public Safety Command Union beginning July 1, 2014 be approved as recommended by the City Manager.

Yeas: Dills, Duncan, Graham, Miller, Skaggs and Seibold – 6
Nays: -0-

The meeting adjourned at 7:39 p.m., subject to the call of the Mayor until July 21, 2014.

Karen K. Brower, City Clerk

Attachments: A – Ordinance Amendment to Section 8.61 of Chapter 83 pertaining to fence regulations.
 B – Ordinance Amendment to add Section 9.63(L) pertaining to begging and soliciting.
 C – Resolution approving changes to Kent County Emergency Operations Plan.

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