

PROCEEDINGS OF THE CITY COMMISSION  
CITY OF EAST GRAND RAPIDS

**Regular Meeting Held July 21, 2014**

Mayor Seibold called the meeting to order at 6:01 p.m. in the City Commission Chamber at the Community Center and led the audience in the Pledge of Allegiance.

Present: Commissioners Dills, Duncan, Skaggs and Mayor Seibold

Absent: Commissioners Graham and Miller

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

2014-90. Commissioner Skaggs announced the news that Ramona's Table would be moving to Rockford. He hoped residents and the city were doing all they could to support local businesses.

City Manager Donovan reported the second phase of the Lakeside Drive construction had begun and reminded everyone to use the posted detours.

Mayor Seibold noted the passing of East Grand Rapids resident Peter Wege on July 7<sup>th</sup>. She thanked Mr. Wege for his many contributions to area projects, including several in East Grand Rapids. Mr. Wege donated funds for the construction and solar panels for the EGR Community Center and assisted with stormwater management projects and the Endowment Fund at the EGR Community Foundation.

Mayor Seibold reported the Historic Preservation Study Committee had met twice to review the report of LSL Planning. The group has been researching various questions raised during the meetings, including implementation, education, enforcement, and possible alternatives to accomplish similar objectives.

2014-91. Mayor Seibold presented appreciation gifts to Donald Lawless and Marnie Masterson for their service on the Planning Commission.

2014-92. A zoning variance hearing was held regarding the request of Stafford Smith & Ritsu Katsumata of 2310 Estelle to allow the construction of a two-story addition creating a front yard setback of 33.1' instead of the required setback of 37.4'.

Zoning Administrator Faasse explained the request to construct a two-story addition that would reduce the front yard setback.

Stafford Smith, 2310 Estelle, explained the proposal to replace the two-stall garage with a three-stall garage with living space above. He stated he had spoken with neighbors on all side and gained their support. He also noted part of the project would improve drainage issues by installing pervious pavers and downspouts..

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

- Tom Duinstra, 2253 Audobon	In Favor.
- Andrew & Sherri Rounds, 1432 Eastlawn	In Favor.
- Libor & Andrea Ondras, 2311 Estelle	In Favor.
- Matt & Deanna Rodriguez, 2316 Estelle	In Favor.

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

A. Dills-Duncan. That the request of Stafford Smith & Ritsu Katsumata of 2310 Estelle to allow the construction of a two-story addition creating a front yard setback of 33.1' instead of the required setback of 37.4' be approved.

Commissioner Duncan thanked the applicant for the visual aids provided and for taking the time to speak with their neighbors. She stated she would support the project.

Commissioner Dills stated that while he felt the 4.3' encroachment was not significant, he could not support the request because he felt the two-story addition was too massive and would change the entire corner.

Commissioner Goebel felt the addition would make this home very different from the other homes and would not fit in on this block.

Commissioner Skaggs noted other homes had very similar front yard setbacks and he did not see a need for absolute conformity in this case. He stated he would support the variance since the neighbors supported it.

Mayor Seibold felt the addition was so large that it would not fit in with the neighborhood, but agreed to support the variance because the 4.3' encroachment was minimal was the only part of the project to require a variance.

Yeas: Duncan, Skaggs and Seibold – 3

Nays: Dills, Goebel – 2

City Attorney Huff noted that since four affirmative votes were required to grant a variance, this matter will need to be continued until Commissioners Graham and Miller can cast their votes at an upcoming meeting.

2014-93. Consider request to approve the division of land at 1916 Lake Drive and 681 Laurel Circle.

Planning Consultant LeBlanc explained the request to relocate the lot line between these two lots that was approved by a prior lot split. Mr. LeBlanc recommended conditioning the lot split on a 100' rear yard setback for Lot 1 to ensure proper drainage. He further noted that both lots would comply with zoning regulations.

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

- Nyal Deems, attorney for the property owner      Explained the boundary adjustment and stated no other changes were being made to the properties or the conditions approved by the Planning Commission for this development.
- Dirk Vermeulen, purchaser of 681 Laurel Circle      Stated they requested the additional property in the rear of the home so that they could protect the front entrance to the home (which is located in the rear yard).

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

A. Goebel-Duncan. That the request of Judy Maggini, owner of 1916 Lake Drive and 681 Laurel Circle, to adjust the property line between the two parcels, creating two parcels as follows: 1916 Lake Drive, a 253 to 284' deep, .62 acre unit (#7) with frontage on Lake Drive, and 681 Laurel Circle, a 300' to 366' deep, 1.68 acre unit (#1) with frontage on Laurel Circle, including an existing home and detached 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. Unit #1 shall have a rear yard setback of 100' from the rear (west) lot line for a distance of 160' from the side (south) lot line. North of that area, the rear yard setback shall be 25'. The rear yard delineated by the setback shall contain no buildings or any impervious surfaces without prior approval of the Engineering Division of the City of East Grand Rapids

Commissioner Skaggs stated his support of the property line adjustment since the lot sizes appear to match those of surrounding properties.

Mayor Seibold stated she had always felt Unit #7 was an awkward shape and that this new division would rectify the situation.

Yeas: Dills, Duncan, Goebel, Skaggs and Seibold – 5  
Nays: -0-

2014-94. Final Reading 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 Tobias explained the proposed ordinance was modeled after a Kentwood ordinance that allows soliciting in many public places, but places reasonable restrictions for safety purposes. He reviewed changes made to the ordinance at the request of the City Commission at the prior meeting, including the removal of references to the entrances to buildings, athletic facilities and payphones.

Commissioner Skaggs questioned whether the court decision rendered on the Kentwood ordinance had been upheld by higher courts. Mr. Tobias explained the defendant had not appealed the decision.

Commissioner Dills asked whether school groups or charitable organizations could still solicit donations under the new ordinance. Attorney Tobias stated that anyone could solicit donations, from locations other than those prohibited by the ordinance, even on private property unless requested not to do so.

Mayor Seibold opened the meeting for public comment:

- Gordon Jones, 325 Rosewood                      Questioned the motivation for the new ordinance as he did not feel it was necessary for public safety. Suggested no decision be made until all commissioners were present to participate in the debate. Mr. Tobias explained the ordinance had been drafted at the request of the Public Safety Department after responding to a complaint of a person soliciting donations near a busy intersection.
- Pamela MacDougal, 500 Cambridge              Questioned whether a study had been done to warrant this extraordinary response. Suggested hiring a constitutional law expert and tabling the matter for further discussion to avoid embarrassment.
- Diane Lange, 2150 Lansing                      Related a story of someone begging at her front door that made her uncomfortable. Stated this was a complicated issue that deserved more consideration.
- Lynne Brower, 2433 Berwyck                      Asked if people needed a license to go door-to-door. Mayor Seibold explained that people selling a product or service needed a license to go door-to-door.

A. Dills-Goebel. 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 adopted as set forth in Exhibit “A” attached hereto.

Mayor Seibold highlighted key points of the ordinance for the benefit of those in the audience and explained the ordinance was being proposed to prohibit solicitation in certain places or instances to avoid potentially unsafe situations.

Commissioner Skaggs stated he felt East Grand Rapids did not have a problem in this area and should not be enacting ordinances based on problems in other communities. Questioned why drastic changes were made since the introduction two weeks ago when commissioners were assured of the constitutionality of the original ordinance. He stated he was unwilling to rely on the advice of attorneys who presented information and then changed their minds. Mr. Skaggs wondered why the Public Safety Director was absent if this was an issue his department was dealing with and asked for details on any reported problems. He stated that while the revised

ordinance was an improvement over the original version, East would be sending the wrong message about being a welcoming and tolerant community. Commissioner Skaggs felt many problems would be created by enacting the ordinance, including prohibiting children from asking for candy during the 4<sup>th</sup> of July parade. He suggested Judge Redford's opinion on the Kentwood case may not be upheld by higher courts if challenged, meaning East Grand Rapids would be placed in a position of defending itself against lawsuits brought by civil liberties groups looking for a test case. Mr. Skaggs stated his opinion that this ordinance was a solution in search of a problem which would cost tens of thousands of dollars to defend. He suggested deleting several dangerous subsections that would not stand up in state or federal court.

- B. Skaggs-\_\_\_\_\_ Motion to amend 2014-94-A to remove Subsections 2, 3, and 5 from Section B of the ordinance amendment.

The motion died due to lack of a second.

Mayor Seibold stated she did not feel this would make East appear unwelcoming or intolerant, but would rather restrict unsafe locations for those asking for assistance. She did not feel the City Commission should decline to act based on a perceived threat of legal action, but should act to protect the safety of those asking for assistance and those in moving vehicles or other unsafe locations. She did not feel anyone should be in the street unnecessarily. Mayor Seibold reported several organizations were recommending that people not give money to those begging, but rather give to programs and services that assist in other ways that does not endanger safety. She reiterated that the ordinance would not prohibit free speech or requests for money or other assistance, but would attempt to make sure it was being done in safer areas.

Commissioner Skaggs stated the City of Grand Rapids declined to enact a similar ordinance. He argued that since the ordinance was being called a "begging and soliciting ordinance" rather than a "public safety ordinance," it was targeting those requesting assistance. Mr. Skaggs stated this ordinance would place the city in tremendous legal jeopardy and felt the city should wait and see if the Kentwood or other ordinance were challenged. He favored allowing other communities to be sued and to spend their taxpayer dollars defending these lawsuits.

Commissioner Dills stated he had given this issue a lot of consideration over the last few weeks and did not feel this was an injustice to those seeking assistance as it does not target any individual or group of individuals, but rather sets restrictions to protect the safety of pedestrians and motor vehicle operators.

Commissioner Goebel agreed with Commissioner Dills and stated he felt the restrictions set by the ordinance were reasonable. He also wondered if the city would be liable for damages if they failed to act on a known public safety issue and someone were injured.

Commissioner Duncan stated that after much thought, she would not be supporting the ordinance because she felt panhandling was not a significant issue in East Grand Rapids. She agreed there are safety concerns with panhandling, but stated she had never been approached in East Grand Rapids and could not support an ordinance unless she felt it was a problem here.

Mayor Seibold stated that instances of theft, panhandling and unsafe behavior do happen in East, and that this ordinance would be a tool to be used to protect people.

- C. Sakggs-Duncan. Motion to table the ordinance amendment until all seven members were present to discuss and vote on the matter.

Yeas: Duncan, Skaggs – 2  
Nays: Dills, Goebel, Seibold – 3

Vote on 2014-94-A:

Yeas: Dills, Goebel, Seibold – 3

Nays: Duncan, Skaggs – 2

2014-95. Dills-Geobel. Motion to approve the consent agenda as follows:

- A. To approve the minutes of the regular meeting held July 7, 2014.
- B. To approve payroll disbursements of \$207,051.25; county and school disbursements of \$2,981.57, and total remaining disbursements of \$567,595.71.
- C. A time and materials contract with Moore & Bruggink of Grand Rapids for construction inspection and staking of Lakeside Drive at an estimated cost of \$49,857.50.

Yeas: Dills, Duncan, Goebel, Skaggs and Seibold – 5

Nays: -0-

2014-96. Ellen Schendel, 429 Briarwood, expressed her offensive at hearing about “those” people or “creepy” people and drawing lines between people. Stated this intolerant of diversity, and that this ordinance was not about “so called” safety issues.

Gordon Jones, 325 Rosewood, expressed his shame for the three commissioners who voted for the ordinance.

Pamela MacDougal, 500 Cambridge, recommending suspending the effectiveness of the ordinance until further consideration could be given and the full commission could vote on such a monumental issue.

Martha Adams, 2439 Berwyck, and Lynne Brower, 2433 Berwyck, asked the City Commission for assistance with overgrown trees and brush on school property behind their homes. They stated their fences and gates have been damaged and they have not responded to their inquiries. City Manager Donovan offered to speak with these ladies after the meeting.

Lynne Goede, 205 Rexford, stated she felt the city commission should not have acted within two weeks to enact this ordinance when residents asking for assistance with historic preservation were still waiting for a resolution to their issue.

Amorak Huey, 429 Briarwood, spoke in support of historic preservation to promote economic diversity.

The meeting adjourned at 7:36 p.m., subject to the call of the Mayor until August 4, 2014.

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Karen K. Brower, City Clerk

Attachments: A – Ordinance Amendment to add Section 9.63(L) pertaining to begging and soliciting.

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