

PROCEEDINGS OF THE CITY COMMISSION
CITY OF EAST GRAND RAPIDS

Regular Meeting Held June 4, 2018

Mayor Seibold called the meeting to order at 6:00 p.m. in the City Commission Chambers at the East Grand Rapids Community Center and led the audience in the Pledge of Allegiance.

Present: Commissioners Duncan, Favale, Hamrick, Miller, Walters, Zagel and Mayor Seibold

Absent: None

Also Present: City Attorney Huff; City Manager Donovan; Assistant City Manager LaFave; Public Safety Director Herald; Parks & Recreation Director Bunn; Finance Director Mushong; Zoning Administrator Mizikar; City Clerk Brower

2018-64. Winnie Brinks, candidate for 29th District State Senate, expressed her interest in hearing about any items of interest to East Grand Rapids officials and residents.

Mike Lewis, 361 Manhattan, spoke against the land division request for 340 Gracewood as he felt there was no way a house could be constructed without disturbing the wetland.

Deanna Eckert, 2827 Reeds Lake Blvd., also spoke against the land division because of the substantial change to the character of the neighborhood, the loss of woods and the increase in drainage issues.

2018-65. Commissioner Miller thanked the Public Safety Department for assisting a resident whose dog fell into an old well last week. He also noted that the city is aware of the development proposal off Griggs south of the city limits and will be updating residents in the area as soon as more information is available.

Commissioner Zagel congratulated City Manager Brian Donovan on his recent retirement announcement and thanked him for his many years of dedicated service to the community. Mr. Zagel also noted that a retirement open house would be held tomorrow for School Superintendent Sara Shubel.

Mayor Seibold announced the city commission would be working to establish a process for the search for a new city manager. She also noted that Brian Donovan would be greatly missed.

2018-66. Permit application for private fireworks show.

Parks & Recreation Director Bunn explained the request for a 7-10 minute private fireworks show over Fisk Lake at approximately 9:45 pm on July 28 for a wedding celebration. He noted that all lakefront residents, Spectrum Health and the Public Safety Department have been notified about the request.

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

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| - Martin Stein, 350 Plymouth | Requested approval of the show; noted there would be more than 200 children in attendance. |
| - Noelle Stein, 350 Plymouth | Spoke in favor of the fireworks. Felt people could comfort their pets if they know about the show in advance. |

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

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| - Chad Edwards, 128 El Centro | Opposed. |
| - Don & Bunny Johnson, 416 Edgemere | In Favor. |
| - Chris Muller, 1950 Robinson | In Favor. |

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

- 2018- -A. Miller-Favale. That a permit application for a fireworks display submitted by Great Lakes Fireworks on behalf of Rachel Smith and Martin Stein of 350 Plymouth Rd. for a show over Fisk Lake on July 28 be approved as requested.

Commissioner Miller noted that a past request had been denied because of the short notice given, but felt there was sufficient time to process this request and notify the residents. He suggested developing a policy for future requests.

Commissioner Zagel and Mayor Seibold noted that this request was for a Saturday night during the summer and would have less impact than during the school year.

Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zagel and Seibold – 7

Nays: -0-

- 2018-67. A zoning variance hearing was held regarding the request of Kyle & Heidi Norcutt of 1930 Lake Drive to allow the construction of a detached accessory structure with a total size of 1,214 square feet instead of the 720 square feet allowed and to allow the structure to be located in the front yard instead of the side/rear yard as required.

Zoning Administrator Mizikar explained the request to construct a garage/storage/pool equipment building partially in the area defined as the front yard. He reviewed the standards in the ordinance and noted the building will line up well with the homes and structures on this side of the street.

Robert Sears, architect and next door neighbor at 1916 Lake Drive, noted the building would be behind the front yard setback line and wouldn't need a variance if it was attached to the house. He stated there was a discrepancy with the city's records that stated the lot was over one acre, when in fact it was just under an acre, limiting the square footage of the building that could be constructed.

Kyle Norcutt, 1930 Lake Drive, stated he purchased the lot thinking it was over an acre and that he could build this structure eventually. He noted he is still working on the landscaping plans that will shield the pool and building from the neighbors behind the property.

Mayor Seibold opened a public hearing. No other public comment was received. The following communications were received at City Hall concerning this variance request:

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| - Rob & Julie Sears, 1916 Lake Drive | In Favor |
| - Nyal Deems, 701 Laurel Circle | No objection; questions about landscaping |
| - Tim Jacobson, 651 Laurel Circle | In Favor |
| - Rob & Monica Jandernoa, 702 Laurel Circle | In Favor |
| - John McCulloch, 1874 Lake Drive | In Favor. |
| - Dirk & Kerry VerMeulen, 681 Laurel Circle | In Favor |

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

- 2018- -A. Walters-Favale. That the request of Kyle & Heidi Norcutt of 1930 Lake Drive to allow the construction of a detached accessory structure with a total size of 1,214 square feet instead of the 720 square feet allowed as required be approved.

Commissioner Walters stated he was reluctant to approve this at first, but was willing to approve because of the error in the city's records that was not the applicant's fault. He didn't feel the building would be a detriment to the surrounding houses.

Commissioner Hamrick agreed it should be granted because of the error in the records.

Mayor Seibold asked which records were inaccurate. Finance Director Mushong explained the city's assessing records often use lot size calculations that were produced before electronic surveying and therefore some of the records are slightly above or below the actual size. She stated they are aware of the issue and are beginning to check lots with the county and GIS systems that are more accurate. Ms. Mushong noted that there is a disclaimer on the city's assessing records stating that the records are not guaranteed to be accurate and property owners should have their own surveys completed for accuracy purposes.

Mayor Seibold expressed concern about the size of the proposed structure as it is the size of an additional house on this lot. She felt that since there was already a garage attached to the home, this new structure could be built smaller to be in compliance with the zoning ordinance.

Yeas: Favale, Hamrick, Walters and Zigel – 4
Nays: Duncan, Miller and Seibold – 3

2018- -B. Miller-Hamrick. That the request of Kyle & Heidi Norcutt of 1930 Lake Drive to allow the construction of a detached accessory structure in the front yard instead of the side/rear yard as required be approved.

Commissioner Miller noted that the angle of the road did not match the setbacks of the homes on either side of the applicant's property, making this a bit of a unique situation for the placement of an accessory building. Due to the shape of the lot and the surrounding structures, he did not object to the proposed location.

Mayor Seibold noted that it was a zoning definition that made this in the front yard, but everyone else would look at this and think it was in the side yard.

Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zigel and Seibold – 7
Nays: -0-

2018-68. Request to approve the division of land at 340 Gracewood.

2018- -A. Duncan-Zigel. Motion to take the following motion from the table for consideration.

2018-44-A. Zigel-Hamrick. *That the request of Gregory and Kristi Artz, owners of 340 Gracewood, to divide the property into two conforming parcels with the northern parcel containing the existing home measuring 125' wide by 144' long containing 18,072 square feet of property, and creating a new southern parcel of undeveloped land with a width of 174.25,' a northern side length of 144' a southern side length of 158.5' and approximately 23,636 square feet be approved, with the following conditions:*

1. *The split complies with the surveys and legal descriptions 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.*

Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zigel and Seibold – 7
Nays: -0-

Zoning Administrator Mizikar reported the Michigan Department of Environmental Quality (MDEQ) has issued a report stating that no special permit would be required as the proposed home would not be built within the wetland area. Mr. Mizikar noted there will be further review of the specific construction plans during the building permit process and the site would be monitored for compliance with all regulations.

Commissioner Miller questioned how close a structure could be built to the wetland. Mr. Mizikar stated that East Grand Rapids does not have a local ordinance establishing a setback from a wetland. Assistant City Manager LaFave noted that the building envelope shown on the plans is for reference only and that specific home construction plans have not yet been submitted showing the specific location of any structure or driveway; however, this will all be reviewed again during the building permit process.

Commissioner Walters noted that the MDEQ has jurisdiction within the wetland only and that East Grand Rapids can control what happens outside the wetland. Mr. Walters reported that other municipalities have local ordinances requiring a 10'-25' setback from the edge of a wetland. He stated he would like to see a condition added to the land division approval requiring a 10' setback from the edge of the wetland.

- 2018- -B. Walters-Hamrick. Motion to amend 2018-44-A. to add an additional condition to the land division approval stating that no structure or non-permeable surface can be constructed within 10' of the wetland delineation line shown on the King & MacGregor report submitted May 24, 2018.

City Manager Donovan noted that East Grand Rapids had proposed a similar shoreline setback and buffer ordinance several years ago, but did not ultimately adopt the regulations because of strong public objection. Commissioner Walters agreed that a permanent ordinance should go through a public input process with research from other communities. He also noted that the new master plan contains language about preserving natural features. He stated he was open to discussion on the exact setback amount, but felt that some type of setback should be required in this case and the ordinance allowed reasonable conditions to be placed on land divisions.

Commissioner Zagel expressed concern about changing the rules or conditions after the applicant has made the application and submitted all of the materials. City Attorney Huff stated that if the commission wishes to establish a wetland setback, the appropriate way to make this change would be through an ordinance change rather than doing it on an individual basis.

Commissioner Hamrick questioned what a reasonable condition would be if not this type of restriction. She noted the neighbors have spoken in favor of keeping the building away from the wetland.

City Manager Donovan noted that the city staff reviews every building project for storm water management and wetland protection issues. These are all handled the same way using engineering standards and MDEQ regulations without involving the commission because there are policies and procedures on how to handle them. The only reason the city commission is seeing this request is because of the land division request—normally all of this type of work would be handled by staff according to MDEQ regulations.

Commissioner Zagel reported the public opposition to additional regulations was very clear when discussed a few years ago.

Mayor Seibold read from the MDEQ letter with the protection language and the steps that would have to be taken to avoid and preserve the wetlands. She noted this was very specific language, but definitely allowed development outside the delineated wetland boundary.

Commissioner Walters reiterated that the City can decide what happens outside the wetland. He pointed to the ordinance that says conditions can be imposed on land divisions and specifically mentions wetlands as a point to consider. He stated he is proposing a 10' setback because that is the normal side yard setback from property lines to avoid infringement on a neighboring use.

Commissioner Miller questioned why the original proposal did not list this area as a wetland if the MDEQ now says it is. He was also skeptical of whether the site could be excavated and a home constructed without somehow impacting the wetland. He was not satisfied that the ordinance condition on negative impact to a wetland was met with this proposal. Assistant City Manager LaFave stated that the MDEQ maps show known wetlands, but may not show every area where water collects or flows. Staff checked the maps before this proposal was submitted to the commission and this area was not listed at that time. He noted it is common practice to perform an initial review when inquiries or purchases are made and then a more detailed review is completed when building permits are submitted showing the scope of a project with exact measurements.

Mayor Seibold spoke against imposing rules on this lot split and home that have not been imposed on others.

Commissioner Duncan stated that while she was not always in favor of changing the rules, she had to listen to the residents who were speaking out in favor of protecting the wetlands. She felt that times and opinions change and the issue of a wetland setback should be revisited as a public process soon.

Vote on 2018-68-B-A:

Yeas: Hamrick and Walters – 2
Nays: Duncan, Favale, Miller, Zagel and Seibold – 5

Commissioner Walters again expressed concern about meeting condition 3(c) of the lot split ordinance since it specifically mentions not disturbing wetlands.

Commissioner Miller was also uncertain on whether the wetland standard had been met with this proposal. He likened this discussion to the through-lot issue a couple of years ago where it was not an ideal situation but there were not detailed regulations in place to prevent it.

Mayor Seibold favored letting the experts on the staff and with the MDEQ make these types of decisions with regard to wetland regulations and oversight of construction projects. City Manager Donovan agreed that there is a detailed process in place for a stringent review during the building permit and inspection process and that the builder would have to comply with all applicable regulations or risk fines and penalties.

Commissioner Walters asked why the lot split ordinance contained the standard mentioning wetlands if the commission was not going to use it. He felt the commission should consider the issue and deny the lot split if it was felt the proposal did not meet the standard. Commissioner Duncan agreed that the commission was charged with reviewing this standard by its inclusion in the ordinance.

Assistant City Manager LaFave restated that all building plans would be reviewed by staff when submitted and would have to conform to not only building codes but water management, drainage, wetland and any other regulations that apply.

Commissioner Zagel spoke in favor of the land division request because both resulting lots confirm and some type of building envelope exists on the new lot. He noted that people may not like the result of the MDEQ report, but we have to trust that the process will work as intended.

Vote on 2018-44-A.

Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zagel and Seibold – 7
Nays: -0-

2018-69. Resolution adopting updated Master Plan.

Mayor Seibold noted the map on page 24 is correct and matches what the Planning Commission adopted on at the May 22 meeting. Some of the smaller maps will need to be corrected to match this map.

Commissioner Zagel also noted the reference to the Gaslight Village Business Association should be corrected in the two action tables at the end.

2018- -A. Miller-Walters. That a resolution adopting the 2018 East Grand Rapids Master Plan be adopted as attached in Exhibit “A” with the corrections noted above.

Mayor Seibold thanked the members of the Planning Commission, City Commission and all of the city staff and residents who have spent so much time on this master plan over the last several months.

Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zagel and Seibold – 7
Nays: -0-

2018-70. A public hearing was held pertaining to the General Fund budget and the property tax levy for Fiscal Year 2018-19. No public comment was received. Mayor Seibold closed the public hearing.

- 2018-71. A public hearing was held on the special assessment roll of delinquent accounts for placement on the July 1, 2018 tax roll. No public comment was received. Mayor Seibold closed the public hearing.
- 2018- -A. Walters-Favale. That the special assessment roll of delinquent accounts totaling \$46,456.09 be certified and placed on the July 1, 2018 tax roll.
- Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zigel and Seibold – 7
Nays: -0-
- 2018-72. Duncan-Hamrick. To approve the consent agenda as follows:
- 2018- -. To approve the minutes of the regular meeting held May 22, 2018.
- 2018- -A. To approve payroll disbursements of \$228,420.99; county and school disbursements of \$-0-, and total remaining disbursements of \$176,324.22.
- 2018- -B. A contract with American Legal Publishing in the amount of \$15,000 for the recodification of the city code.
- 2018- -C. A license agreement with Kent County Dispatch Authority in the amount of \$1 per year for 30 years to locate antenna equipment on the city water tower as attached in Exhibit “B.”
- 2018- -D. An amendment to the letter of understanding with the City of Wyoming regarding health insurance benefits for a former city employee as attached in Exhibit “C.”
- 2018- -E. The Joint Facilities Budget for FY 2018-19 as recommended by the Joint Facilities Committee.
- Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zigel and Seibold – 7
Nays: -0-
- 2018-73. Miller-Zigel. Motion to enter into an executive session following the special meeting to discuss an attorney’s opinion in accordance with Section 8(h) of the Open Meetings Act. A roll call vote was taken.
- Yeas: Duncan, Favale, Hamrick, Miller, Walters, Zigel and Seibold – 7
Nays: -0-

The meeting adjourned at 7:47 p.m., subject to the call of the Mayor until June 18, 2018.

Karen K. Brower, City Clerk

Attachments: A – Resolution adopting updated master plan
B – Water tower lease agreement
C – Letter of Understanding with City of Wyoming

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