Making sense of the last Commission meeting

Madame Mayor and Commissioners,

Monday's meeting had a lot to absorb. Here is what we heard. Clearly there is no compelling reason for the City to join an appeal of the court's ruling. For the good of EGR we encourage you not to.

Attorney Mike Roth represented the City of EGR in the Gaslight Development court case against the Residents of EGR last month. Below are the main points of his ten-minute address to the Commission, taken from the YouTube Transcript:

Regarding the Referendum Petition which was Count 2 in the court case and has not yet been addressed by the court:

- The City will agree to a motion, filed by the Residents' attorney, which will allow the City to appeal the court's decision regarding the Protest Petition without blocking the Residents' ability to bring back the Referendum Petition count if needed.
- This would allow the 21-day appeal window to open for the City.

Regarding why the City would choose to appeal the Court's decision:

- "There will be a number of arguments that will be made to the Court of Appeals in the event that … there is an appeal. And I'm sure that, Gaslight Investors will have a full panoply of issues that they bring before the Court of Appeals."
- The major issue for Mr. Roth is that the City Clerk was put in a position where there was "an impossible legal standard for her to comply with." According to Mr. Roth:
    - The clerk had to validate the signatures on the Protest Petition but had no way to validate whether the signatories that represented corporations were authorized to sign for those corporations.
    - If she validated them, "then the city is going to get sued by Gaslight Investors."
    - She did not validate them, leading to where we are today.

Mr. Roth's reasoning for the City to waste further time and money on joining an appeal is weak. Please consider:

The City *could have just asked* the people who signed for proof that they were allowed to sign on behalf of the companies. This would have been provided. The City made no attempt to contact anyone associated with the Protest Petition during the window of time for its approval.

During the court case the City did <u>not</u> challenge the validity of the signatures. Neither did they challenge that the signatories owned more than the required amount of surrounding property and the Petition was turned in on time. The only challenge was the Administrative vs Legislative issue and the court ruled quite clearly that the City was in the wrong on that.

It is apparent that the primary motivation for the City's legal team throughout this process is to avoid being sued by the developer. It was stated early on that the City "would rather be sued by its residents than by the developer." During the court case Attorney Roth stated, "So we're sitting at council table with Mr. Wilson (the Developer's attorney). We make a different decision; he's over there suing us."

Fear of the developer can no longer be the driving force behind EGR's plans for growth. The City Commission, not Varnum attorneys and not the developer, have the sole responsibility to guide the City's actions. It is time for the Commission to start representing the people for whom it was elected. It is time to take leadership in guiding development that fits the character and needs of the residents of EGR. The City Commission needs to vote not to appeal.

Sincerely,

Jerry Anderson on behalf of EGRRD

David Decker on behalf of GVRD