

Minutes of a Meeting of
PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE

held September 22, 2014
7:00 p.m.

Members Present: Councilman David L. Tadych, Chairman
Councilman Tom Henderson
Councilman Steve Lee

Also Present: Law Director Ebert, Bob Greytak, CT Consultants;
Director of Public Service/Safety Director Scott Thomas,
Director of Operations Landers

Audience: Debbie and Kevin Busdiecker, Jeff Foster, Tom Vickers, J. Maurer, Don
and Cindy Zimmerman, Bill Barack, Rick Wise, Steve Lorton, Suzanne
Bagnall, Dave and Karen Brill.

Chairman Tadych called the meeting to order shortly after 7:00 p.m. He explained the meeting was delayed a few minutes due to the Planning and Zoning Committee meeting held at 6 p.m.

Mr. Tadych advised that he met with Bob Greytak of CT Consultants, Director of Public Service Scott Thomas, and Law Director Ebert. They have received tentative estimated assessments for the Sunset Area Improvement Project from Bob Greytak, engineer with CT Consultants.

The total construction costs are estimated at \$1,382,597. The City portion of the project amounts to \$320,744.56, bringing the assessable project cost to \$1,093,057. The front footage assessment that it is thought will end up being close to, or maybe not, is about \$304.48 per linear foot. The way the property is assessed is by taking the shortest piece of property and apply the front footage assessment of \$304.48 per linear foot. The longest piece is taken, the number applied, and 25% of the footage applied, reducing the footage of the longest piece by 75%. The two numbers are put together and that is the assessment.

Ohio Public Works Commission (OPWC) grants may be available. It is estimated that an additional \$100,000 may possibly be received from Surface Water Improvement Fund (SWIF) grants, another source of funding. All grant funds awarded and received will be applied equally to every property owners' assessment.

Bob Greytak of CT Consultants stated that they have tried to make sure that the largest assessment was not so far in excess of the rest of the assessment that it was disproportional. They looked at it three different ways. First, strictly on front footage with no credit for the frontage on the corner properties on Lake Road. Doing it that way there were some properties that would be assessed with very large numbers. They decided to apply the spirit of the ordinance (C.O. 905.01(e) where the short frontage would be assessed at 100% and the longest

frontage for the corner lots would be at 25% of that length. That worked out to be the lowest maximum assessment for any of the properties, and a fair and equitable approach.

Mr. Donald Zimmerman, 24744 Lake Road, stated that his tentative assessment is \$20,000 higher than anyone else, and part of his frontage is on Lake Road. Other people that are in the Sunset area on Lake Road are not being assessed at all. Why is his frontage on Lake Road that is not being affected by this improvement at all being included in the assessments?

Mr. Greytak responded that the first way they looked at it was only assessing the frontage that is within the Sunset area. They did not include the frontage on Lake Road. But, because of the way the ordinance is written, the longest frontage then would be assessed at 100%, and there would be zero credit for the 75% reduction on the longest frontage.

Mr. Zimmerman stated that he has a Lake Road address. His frontage is Lake Road. Mr. Greytak stated that Mr. Zimmerman's property is a corner lot and is in the project area.

Mr. Zimmerman asked why he is in the project area since it was understood from earlier meetings that it has been stated that the property to be assessed has to benefit from the project. None of the sewer work, for example, benefits his property at all. Mr. Greytak stated that the sewer work does benefit Mr. Zimmerman's property. There is run-off from Mr. Zimmerman's property and that run-off from Mr. Zimmerman's property that goes on to Rockledge Drive needs to have storm drains installed to move it to the Lake. There is a benefit to Mr. Zimmerman's property and there is an also impact from Mr. Zimmerman's property on to Rockledge Drive.

Mr. Zimmerman stated that CT Consultants earlier provided a drainage map that showed that his property drained to the northeast. Is that now being contradicted? Mr. Greytak stated that the drainage map that is in the packet that they provided initially does show that there is drainage from Mr. Zimmerman's property onto Rockledge Drive.

Mr. Ebert stated that if Mr. Zimmerman would have been assessed 75% on Lake Rd. frontage his assessment would be significantly higher, approximately \$93,000. They removed that and calculated the tentative assessment at 25% of the sideyard. Mr. Ebert noted that all of the tentative assessment calculations are significantly large for all property owners. That is one of the reasons this project was not done for so many years. The idea is that it will have to be a 20-year assessment to make it affordable.

Mr. Jeff Foster asked if there is a summary of work that relates to this estimated project cost. What is included in that \$1,054,670 opinion of construction cost?

Cynthia Horst Zimmerman asked if that is the final concept that was shown to the property owners previously. Mr. Tadych stated that it is the final concept. Mr. Zimmerman stated that is a horrible concept. There is no justification for doing the 18 feet; some people are going to lose up to 7 feet of their tree lawns. At some places the street is only 11 feet wide. There is no discussion as to what happens to the number of people in the neighborhood who have nice

driveways that are going to be adversely affected if it is tried to go 18 feet. There seems to be no reason to go to 18 feet. It is understandable that there needs to be improved accessibility for the trucks but widening the intersections should take care of almost all of that. There is no justification for going to 18 feet. Secondly, that concept has the pervious pavers going in the intersections which makes no sense at all since the original idea behind the pervious pavers was that they would give the look and feel of a sidewalk, which certainly putting them in the intersections just doesn't do. Secondly, there would be a back-up drainage system for the road, which also putting them in the intersections doesn't do. The reasons we have flooding problems down on Kenmore now is the old drainage system is not deep enough, and truck traffic collapsed the sewer system. The concept calls for that sewer system going only three feet deep, giving us basically the same problem. The concept is fatally flawed in so many respects it is not a serious proposal.

Mr. Tadych stated it is, indeed, a serious proposal. Mr. Greytak stated that as said in the meetings that have been held so far, roadway design going forward is never going to be the same as it was in the past. There are requirements from the Environmental Protection Agency (EPA) to address water quality from storm water. Those have been addressed through either permeable pavers and storage underneath the permeable pavers. They have also included some areas for bio-retention. They think they have a good plan and it is conforming to EPA requirements. They have discussed a number of different alternatives through frequent meetings and came to the conclusion this was the most economical and effective way of doing the project, still giving some of the ambiance of pavers in the neighborhood. The pavers are concentrated in specific areas, are effective and that is what the proposal is based on.

Mr. Tadych commented that without the pavers they would have to do something to catch 20% of the water outside of the sewers. That is why the pavers are being put into place.

Mr. Zimmerman stated that another firm came up with an alternate concept of pavers that would look like sidewalks. That would seem to actually address the run-off problems in a much better way. Mr. Greytak stated that they have gone through that discussion already.

Cynthia Horst Zimmerman stated that her concern with that is that they are being presented with a final concept last time to which all the residents had disagreements. They didn't want bio-swales. They questioned other things. But, they have never had alternatives. A year ago they were promised charettes to look at; they never got that. They sat through two very frustrating meetings where the residents were asked what they wanted and then the City came back with things they didn't want. Now, you are asking me to pay \$57,000; for what?

A resident asked if Mr. Tadych would address timing, construction, and the effective date of the assessment. Mr. Tadych stated that if they can move forward with these project numbers without too much delay, hopefully the project will begin in the spring. Personally, I would like to see it done at the end of next year. There is sewer work that has to be done yet this year. That will be done in the next couple of weeks. CT Consultants will check out the actual sanitary sewers. The city pays for the sanitary cost, and we want to make sure they are functional and there aren't any broken pipes and the sanitary water will flow well. In the spring, if we can keep this rolling

along we are going to move forward with the project. The assessments are not applied until the project is completed. If the project is completed in 2015, the assessment will take place the second half of 2016.

Mr. Ebert stated that once the project is agreed to it goes to Council for resolution of necessity. After that, there is an Equalization Board after the assessments are determined and the final numbers of the project are ready. Mr. and Mrs. Zimmerman, and the other residents being assessed will have the opportunity to raise objections, e.g., the benefit is not his because he is on a corner lot, etc. Those decisions are made by the Equalization Board. That goes back to Council. If a resident's objections are agreed upon by the assessment Equalization Board, they would reduce that number and that number would go to the City's portion of the project. If the City says we can't do this project based on the budget with that number, the whole process starts all over again. That could slow up the project. Mr. Ebert suggested that a timeline be created indicating all of the required steps and the earliest time of construction and assessments.

Mr. Tadych noted that in the initial reviews of the project it was determined that it would be complete enough by December of 2015, although there would still need to be grass and trees planted and landscaping to be finished later in the spring. But, the job itself would be sufficient enough for everyone to live with successfully.

Mr. Ebert asked Mr. Greytak when he would know the results of the grant applications. Mr. Greytak stated that he would know if there were funds available by the summer of 2015.

Mr. Lee asked Mr. Greytak to expound on the different grants he might pursue and the likelihood of success. Mr. Greytak stated that the Ohio Publics Work Commission (OPWC) is one possible grant. Unfortunately, they look at those projects which have the most impact on the largest number of users. If you are looking at only 40 or 50 homeowners the ranking will not be as high. There is a better chance with the Surface Water Improvement Fund (SWIF) grant because they are using Best Management Practices (BMP) in a residential area which is highly visible.

A resident stated that early on in the discussion about the funding split between the city and the neighborhood, there were words that were said like "you will have to pay for the sewers and the City will pay for the roadway" or vice versa. These numbers don't seem to reflect anything the City is paying. Mr. Tadych stated the sanitary sewers are not included in these numbers. The resident stated that the sanitary sewer is there. Mr. Tadych stated that the City does not know what shape they are in. The resident stated that the City tested them a couple of years ago.

Director of Public Service Thomas stated that they have checked the downspouts. They will be checking footers and things like that also. Mr. Foster asked if that will include storm drainage. What the resident (Bill) is referencing would mean sanitary sewers. Mr. Tadych stated that sanitary sewers are the City's obligation. The resident stated that what they were told before, in terms of the storm sewer, the City would pick up that portion and the residents would pick up the roadways.

Mr. Ebert stated that the City is required by law to pick up 2% of project costs plus the cost of the intersections.

The resident stated that they were told that there would be a more equitable split between the City funding and the assessment funding. There are problems with all-of-a-sudden the neighborhood is paying for 85 to 90% of the project.

Mr. Tadych stated that he does not recall that but they can certainly check it out. Mr. Ebert stated that the questions being raised to the committee here will actually go back to the whole Council to discuss.

The resident stated that the question comes down to what is the committee's philosophy of what they are going to recommend to Council in terms of a split between the neighborhood and the City for funding for their project.

Mr. Lee asked Mr. Ebert to comment on what the historic approach has been city-wide. Mr. Ebert stated that the historic, city-wide approach has always been 2% of the project and the cost of intersections. The Sunset area has never been assessed for improvement projects. That's the reason these numbers are so large. In the early 1980's the Cahoon Road residents were assessed \$54.00 a running foot. What may happen with a project of this magnitude, the City could take under consideration what the cost of a base or overlay would be to try to get the numbers down. That all would be discussed by the Council of the Whole, based on the committee's recommendation after listening to the residents' concerns and the engineer's report. Twenty years is a long assessment. That is far as the City can go on a project of this magnitude. There are issues in the area concerning the roadway; there are going to have to be some permanent easements for the right-of-way; the park property in some form or fashion is going to have to be given to the City for the right-of-way.

Mr. Foster stated that all of the issues they are having to deal with the storm water and the Best Management Practices (BMP) are affected by the delay in the project. Ten years ago it would not have been necessary to deal with any of that. The residents should not have to bear the burden of those additional costs because of the delay in the project.

Mr. Ebert stated that the residents are actually getting a benefit of the new issues in terms of the pavers. This project was designed every which way several years ago and never went anywhere because of the cost. That has always been the issue.

Mr. Foster stated that ten years ago they could have just paved, put storm sewers in and been done. They are paying more because of the pavers.

Mr. Lee asked if the City is bearing all of the incremental cost of the design of the intersections in pavers. Mr. Greytak stated that whatever the intersections are is the City's portion regardless of the material costs.

A resident stated that he understands the City is trying to be fair as far as the method of assessment for corner lots, but the formula is not very fair when it is applied to a straight frontage. His assessment, compared to people who have double frontage, is about the same. Can you explain how that is a fair division of assessment?

Mr. Greytak stated that they are just following the ordinance.

The resident stated he has 80 feet of frontage and is paying more than people with 140 feet of frontage on a corner.

Mr. Greytak stated that if there is an error in calculation as this process proceeds, and a resident thinks they are being unfairly assessed, the Board of Equalization is the one that looks at those issues and then makes a recommendation as to whether the assessment is fair or not.

Mr. Ebert stated that the people who do get a break, as far as how the formula is applied, are corner lots. If you feel they are getting a better benefit that is the type of issue that goes before the Equalization Board. To see if how you are being assessed is fair compared to other people that are being assessed in the project area. After the Equalization Board makes their recommendation to Council, Council will then make a determination as to whether to accept or reject the Equalization Board report. If they accept it or there are properties whose objections are approved, that portion will be transferred to the City's portion.

The resident stated that the simple response seems to be "that's the ordinance, that's the calculation, there you are."

Mr. Ebert stated that this Sunset area is unique. That is why there have not been improvements for such a long period of time. It will be up to Council to actually look at it and see if there is any other way the City could contribute any more dollars. The Council will have to look at the uniqueness of the area, the size of the area, the size of the streets, and until they do some field work down there, no one knows what is going to be involved in the City's portion with the sanitary sewers. A lot of things you see above ground may not be connected to anything. And that includes cross connections of sanitary sewers. That won't be known until there is field construction there.

Tom Vickers asked if there is something Mr. Ebert can provide that explains the law behind or the division behind the City's portion. Mr. Ebert acknowledged that he would send that information to Mr. Vickers.

Mr. Ebert stated that Council must pass a Resolution of Necessity which is the resolution which starts the project.

Mr. Vickers stated that they need to know what portion of the park property Mr. Ebert is referencing to utilize as part of the project. Mr. Greytak stated that the roadway is outside the right-of-way in some locations. In order to get a full roadway with the proper cross section they should have at least 40 feet like the rest of the roads. They are recommending on the park side

that another 20 feet of right-of-way be conveyed, which would not necessarily have road on it but it would be the same as the rest of the right-of-way in the area.

Mr. Vickers stated they would like some type of explanation of what the City would like from the park in regard to the land so that they know what they want to do.

Mr. Ebert stated that it wouldn't be road per se. That is another thing for Council to decide. There has to be sufficient amount of width to do construction. You may put a road in one place but you are going to need area for construction to get that road in. The right-of-way would not necessarily have pavement in there but to get in and do the work they may be going on the park property. That is something that is going to be discussed with the park trustees.

A resident stated that there is a big difference between giving the City a temporary right-of-way and a permanent right-of-way. Even if there is trust with this Council, what will be the case twenty years from now? Mr. Ebert stated that a recorded document will be necessary, whether it is an easement for work or whether it is an easement that the City will always have a right-of-way there.

Mr. Lee added that this would be needed even if the road is built exactly where it exists today.

Mr. Greytak stated that additional right-of-way is needed because the road is outside the right-of-way now. Mr. Ebert noted that there may be something that needs to be placed underground of the park property that is going to require maintenance by the City.

Mr. Zimmerman stated that he noticed the park itself is not being assessed anything. When was that decision made and what were the grounds for making that decision?

Mr. Greytak stated if the park is assessed it is going to be \$304.48 per linear foot for the entire length of the park which is then going to be split up against all the members of the park.

Mr. Ebert stated that is also something the Council is going to have to entertain, because of the uniqueness of the situation.

Mr. Zimmerman asked if numbers with the park being assessed could be provided. Mr. Greytak stated that he would run those numbers.

Mr. Greytak noted that amount of assessment for frontage then changes by that method. The amount per linear feet would go down. Mr. Henderson commented that that would have to be transferred to the ownership of the park and then the ownership of the park would be the determining manner in which that would be assessed to individual members' owners of the park.

Mr. Tadych asked if that would be the case would they be able to put that on their tax duplicates over a 20 year period. Mr. Ebert stated that if the property owner actually has in their deed that they own a certain portion of the park, the answer is yes.

Mr. Lee asked if the intention of the twenty year assessment that the city incurs for the debt would be a twenty year bond which would be retired as the assessments are paid. Mr. Ebert responded affirmatively, noting that because of the significant size of the project it is extended to twenty years.

Mr. Henderson asked if the capitalized interest the 3.25% of loan amount. Is that where that number comes from based on an estimate of the twenty year interest? Mr. Ebert stated that is where that number comes from, but as Mr. Greytak said these numbers are estimates.

A resident asked Mr. Tadych if there has been a number run at whatever rate bonds are floated at these days, what a twenty year assessment interest rate applied to an estimated assessment comes to. Pick a base number, and for an assessment example of \$10,000, what will be paid totally over the life of twenty years. If you are assessing me \$10,000, I might be paying \$20,000 over the twenty year time.

Mr. Ebert will ask the Finance Director to run some numbers based on our rating what it would be if it were now. The longer we wait the higher the interest rate will be. There is also a one-time charge for putting it on the tax duplicate.

The resident stated that none of this talks about the cost of connecting the sewer on the private property. That could be another \$10,000 per home.

Mr. Greytak stated that the cost for connection is typically \$15.00 or \$20.00 for foot. Where the lateral comes out of the house and how far it is to the connection point, he cannot tell.

A resident asked if it has been decided whether they will need to do that connection. Mr. Tadych stated that most likely there will be some effort to do this.

Director of Public Service Thomas commented that currently his crews are on the Douglas/Bruce area on an EPA issue where they are testing 180 plus homes. Last time the crews were in the Sunset area they did dye testing. What they are doing now is going to determine whether the house is connected into the sanitary, or if it is being drained to the storm sewer where it should be. They are doing things a little bit differently. The crews will be moved to the Sunset area soon. A letter will be sent asking permission from the property owners.

A resident stated that if they have to do the connections, he would encourage the City work with them to get one contractor at a fixed rate to come around and do every household that is affected rather than leaving it to each individual to do their own. Mr. Thomas stated that it will be thoroughly studied with recommendations back to Council on the direction in which to proceed.

Mr. Zimmerman stated that they have their own drainage system that runs out to the lake, as do other homes on Lake Road. How will they be impacted? Mr. Thomas stated that whatever the sewer is tied into they will follow that so that it will be documented. They will do what they have to do according to the EPA mandates.

Mr. Zimmerman stated that they know where the pipes run. The downspouts either run out onto the property or they run out to the lake. Does that mean they will have to redo that so they tie into the storm sewers on Rockledge? Mr. Scott stated that if the downspouts go onto the property without interfering with someone else then it could be allowed. If it is interfering with someone else's property that may have to change.

Mr. Foster stated that the Sewer District is recommending disconnection of downspouts from structured storm sewer as a way to reduce run-off. Mr. Greytak stated that there is always a proviso that it doesn't impact other property owners. Mr. Ebert noted that the rain from the street has to be connected to the storm sewer.

Mr. Tadych stated that they knew this was going to be a difficult meeting and that is why he wanted all of the property owners to get a notice of the meeting. It is important that they know where we are starting. This is the first time these numbers have been seen. This is the beginning of an effort.

A resident asked what the next step is. Mr. Ebert suggested that it be placed on a Council Committee Session agenda for discussion in the near future after the footage is received from the park to see if that would be beneficial. That may push it over to some of the property owners on Lake Road, and they will be unhappy. We'll see what the numbers come out to be.

Mr. Tadych noted that the project cost does not include tree costs. If trees have to come down that is additional cost. There are no new trees being planted on this plan. The numbers on this project cost estimate do not have anything to do with trees. Mr. Lee noted that there are no expenses shown for lighting as well.

Mr. Lee asked the estimated life of the road and will it be able to be milled and filled like the other streets in the City. Mr. Greytak stated that the estimated life has to exceed the assessment period, a minimum of 20 years. Obviously a new roadway with a new base is going to be there 50 to 100 years. There will be four feet of base underneath the pavers to store the storm water that collects below the pavers. Everything else will be asphalt. It can be milled and filled. The pavers in the intersections do not prevent milling and filling in other areas. It will be similar to other areas in town that were originally assessed for a concrete roadway and subsequently now are milled and filled and there is no assessment associated with that maintenance over time.

Mr. Zimmerman stated that a lot of people who are interested in seeing these numbers are not at the meeting. He asked if there is a plan to get all the residents copies of these tentative numbers so they know how they are going to be impacted.

Mr. Tadych stated that there is no guarantee for these numbers and the numbers are here for whoever wants them. Upon request they can be sent out. Mr. Greytak stated that he would make them available but he would not mail them out. They are preliminary numbers and he is concerned about someone getting something they are not familiar with and the discussions that have been held.

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Mr. Henderson agreed, noting that sending these out by mail at this point without additional context such as the discussions that were held tonight, should not be done.

Mr. Zimmerman stated that there are people in the neighborhood that aren't going to be able to make these numbers and they are going to have to sell their property. By denying them this information, you are denying them the opportunity to do the planning they need to do.

This was an open meeting and if someone couldn't be here they are entitled to the information.

Mr. Tadych noted that without an explanation they are not solid numbers. Mr. Tadych thanked everyone for their attendance.

The meeting adjourned at 8:00 p.m.

Joan Kemper, Secretary

David L. Tadych, Chairman