

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Public Services

SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, November 19, 2015



A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, November 19, 2015 in Conference Room 101.

In attendance were: **Chair Connie Fults** (Ward IV), **Councilmember Barbara McGuinness** (Ward I), **Councilmember Bridget Nations** (Ward II) and **Councilmember Dan Hurt** (Ward III).

Also in attendance were: Mayor Bob Nation; Councilmember Barry Flachsbart (Ward I); Councilmember Bruce DeGroot (Ward IV); Harry O'Rourke, Interim City Attorney; Allison Harris, Planning Commission Member; Mike Geisel, Director of Public Services; Jim Eckrich, Public Works Director/City Engineer; Aimee Nassif, Planning & Development Services Director; and Kathy Juergens, Recording Secretary.

The meeting was called to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the November 5, 2015 Committee Meeting Summary

Councilmember Nations made a motion to approve the Meeting Summary of November 5, 2015. The motion was seconded by Councilmember Hurt and **passed** by a voice vote of 3-0 (Councilmember McGuinness abstained.)

II. OLD BUSINESS

A. River Valley Drive Closure Project

STAFF REPORT

Jim Eckrich, Public Works Director/City Engineer, reported that in May of 2015, City Council directed Staff to prepare plans and provide a cost estimate for the closure of River Valley Drive just south of the Chesterfield City limits in response to the potential development of the Howard Bend area within the City of Maryland Heights.

Site Plan

Mr. Eckrich presented a site plan depicting a 44 foot radius cul-de-sac with a colored concrete island in the middle. A gate is proposed northwest of the cul-de-sac to provide access for emergency services and utilities. Pedestrian and bicycle traffic will be permitted through a paved path around the west side of the gate.

Initially Staff believed a retaining wall would be necessary, but it was possible to design a 3:1 slope to avoid a retaining wall. A rock drainage swale is proposed immediately adjacent to the pavement to direct water around the cul-de-sac and into the creek.

Design Estimate

The final design estimate for this project is \$155,000 which includes a 10% contingency.

Right-of-Way Dedication

City Staff has been told that the affected property owners at 178 River Valley Drive and 180 River Valley Drive will donate the land necessary for the new right of way and temporary slope and construction licenses.

Recommendation

If directed by City Council, Staff will proceed with easement acquisition and a bid package with a possible bid opening in spring 2016.

Councilmember McGuinness made a motion to initiate the River Valley Drive closure project, as well as funding, and to forward to City Council with a recommendation to approve. The motion was seconded by Councilmember Nations.

Discussion

In response to a resident's question, Mr. Eckrich stated the fence near the culvert would be similar to the fence that was recently erected on Ladue Road by the creek.

Maryland Heights Valley Update

Chair Fults requested an update on the Maryland Heights Valley project. Mr. Eckrich reported that Maryland Heights has updated its Comprehensive Plan and has approved zoning and a preliminary development plan. The developer is currently working to obtain final plan approval.

Maryland Heights performed a traffic impact study on which Staff has commented. However, to date, there has been no response from Maryland Heights.

Construction Timeframe

Maryland Heights' construction timeframe is unknown. It is anticipated that construction will begin some time in 2016. If the River Valley Drive closure project is bid in the spring of 2016, Staff estimates that River Valley Drive can be closed by the fall of 2016.

Impact to Hog Hollow Road

The closure of River Valley Drive will adversely impact Hog Hollow Road. If River Valley Drive is closed, the average daily vehicles could increase by 184%. Staff is continuing to work on solutions to the Hog Hollow concerns and will provide recommendations when they become available. There was further discussion regarding possible improvements to Hog Hollow Road.

The above motion passed by a voice vote of 4-0.

Discussion after the Motion

Mr. Geisel confirmed that this item will be on the agenda for the December 7 Council meeting to consider the initiation of the project and budget transfer. Council will also consider the final bids in 2016. He also confirmed that this project was not previously included in the Capital Projects budget.

There was further discussion on the timeframe for initiating Hog Hollow Road improvements regardless of whether River Valley Drive is closed or not. Staff's original recommendation was to consider the closure or vacation of *both* River Valley Drive and Hog Hollow Road. However, the Planning & Public Works Committee decided to keep Hog Hollow Road open and proceed with the closure of River Valley Drive due to the impending Maryland Heights' development project. The closure of River Valley may accelerate efforts between St. Louis County and Maryland Heights to develop better long term transportation alternatives.

[Please see the attached report prepared by Jim Eckrich, Public Works Director/City Engineer, for additional information on the River Valley Drive closure project.]

B. Snow Removal Reimbursements for Private Streets

STAFF REPORT

Prior to Council's consideration of potentially amending the snow removal reimbursement program to include private, gated streets, it was recommended that Staff research the mileage and potential additional costs of reimbursing private-gated subdivisions for snow removal. Jim Eckrich, Public Works Director/City Engineer, presented the following information:

- The City reimburses 45 subdivisions with 25.3 miles of non-gated private streets at an annual reimbursement of approximately \$162,000.
- There are 21 gated subdivisions with 14.9 miles of private streets. If these subdivisions were reimbursed at the current rate, there would be an additional estimated reimbursement of \$101,000.
- There are an additional 35 non-gated subdivisions with 12.7 miles of private streets that are eligible for reimbursement, but have not previously requested reimbursement. If these subdivisions requested reimbursement under the current program, there would be an additional estimated cost of \$86,000.
- There are 12.1 miles of non-residential private streets that are not eligible under the current policy. However, these streets are "private" streets and it would be difficult to make a significant legal distinction based upon public health and safety concerns. If eligibility modifications are made to the current policy, then non-residential private streets should also be considered.

Discussion

Councilmember Hurt questioned why a subdivision might not participate in the program. Mr. Eckrich suggested some subdivisions may not be aware of the program or perhaps they do not participate due to the small size of their subdivision. It was also suggested that they may not even plow their streets.

Councilmember Hurt recommended providing snow removal reimbursement for all private streets, whether gated or not, as he feels this is a more equitable approach for all the City's residents. Interim City Attorney, Harry O'Rourke emphasized that the question is not whether the City can do this, but whether is this *permissible* under State Constitutional provisions. Over the years, three different City Attorneys have reviewed this matter a number of times, and each time, the decision has been that adopting such a policy would violate the State's prohibition against the use of public funds for private purposes.

Councilmember McGuinness pointed out that the constitutional provision includes the phrase “unless it serves a public purpose.” Mr. O’Rourke stated that court opinions consider whether the benefit to the private interest is incidental or primary. With respect to snow removal reimbursement for private streets, it is his opinion that such a policy would not likely pass constitutional muster.

Councilmember Flachsbart stated that since many of the City’s private, gated streets are open to the general public and utilized by both emergency vehicles and the public, snow plowing could be considered an incidental benefit to the private parties. He then suggested a letter be drafted to the Missouri Attorney General requesting an opinion based on these facts.

Further discussion ensued regarding the difference between a primary benefit and an incidental benefit. Mr. Geisel pointed out that if the benefit is defined as “allowing emergency access and general service access”, then it would be difficult to differentiate between residential and non-residential private streets.

It was noted that the City Attorney’s opinion addressed *gated subdivisions* which raised the question as to how that differs from private streets in general. Mr. Geisel stated that previous City Attorney opinions differentiated between gated and non-gated private streets in that the general public has full and unfettered access to non-gated private streets while access to gated subdivisions is restricted.

If the City were to establish a uniform snow plowing policy which also encouraged gated communities to plow their streets, Chair Fults questioned whether the public interest would then outweigh the private interest. Mr. O’Rourke pointed out that the City is not actually plowing the streets but is only providing partial reimbursement for the plowing. Even though the City may indicate its desire for uniformly clear streets for emergency vehicles and public service access, the City would not actually be taking action to pursue that end as the City only provides a monetary reimbursement and leaves it up to the discretion of the subdivisions as to whether or not to clear the streets. The City can state that they are trying to encourage snow plowing, but it is ultimately the judge’s decision based on his interpretation. When examining an issue, judges look at how previous case laws have interpreted the Constitutional provision and try to provide an analysis to the current situation. There is no case exactly on point regarding this issue, but there are cases that interpret the Constitutional provision in ways that we can analogize. So that is the challenge – whether the public benefit is a primary or an incidental benefit. Mr. O’Rourke stated that he is of the opinion that the City would not have a strong case. He also noted that an Attorney General’s opinion is a lawyer’s opinion and is not binding. Attorney General opinions are helpful and provide guidance, but they are not determinant of what the law is.

Councilmember McGuinness requested a list of gated and non-gated subdivisions throughout the City. She also stated that she has opinions from seven Attorney Generals on this issue and volunteered to share this information with the Committee via email.

Councilmember McGuinness then referred to the term “public purpose” noting that this this could be considered a public purpose as emergency services need to gain access to gated subdivisions. Mr. O’Rourke pointed that if the public purpose being pursued is uniformly clear streets in snowy conditions for first responders to have unfettered and complete access, the argument could be raised as to whether the City is taking actions to pursue that purpose.

Mr. Geisel then explained that the reimbursement program only provides a partial reimbursement and not a 100% reimbursement. The formula is based on the length of street and the number of household units. The current rate is \$4,500/mile or \$40 a unit.

Councilmember Hurt made a motion directing Staff to seek an opinion from the Missouri State Attorney General regarding reimbursing private, gated subdivisions for a portion of snow removal expenditures. The motion was seconded by Councilmember Nations.

Discussion on the motion

It was decided that Mr. O'Rourke and Mr. Geisel will draft the request to the Attorney General and that the Committee will have the opportunity to review the request before it is sent.

Discussion ensued regarding increasing the current allocation of \$162,000 if gated subdivisions are included in the program. The current allocation is an artificial cap regardless of the number of subdivisions that participate. Individual reimbursements will decrease as more subdivisions participate in the program unless additional funds are added.

The above motion was passed by a voice vote of 4-0.

Mr. Geisel summarized by stating that Staff will provide a list of gated communities, draft a letter to the Missouri Attorney General to seek an opinion, and noted there will be no policy modifications at this time.

III. NEW BUSINESS

Councilmember McGuinness informed the Committee that as part of the closure of River Valley Drive, the River Valley Homeowners Association plans to honor the late Councilmember Greenwood for her support in their effort to close the street and they are currently discussing different options.

In light of Councilmember Greenwood's contributions to the City as a whole, she suggested that Council consider renaming Stemme Drive to Nancy Greenwood Drive. Mr. Mike Geisel, Director of Public Services, stated there is a defined process for renaming streets to which Ms. Aimee Nassif, Planning and Development Services Director, explained the process. Councilmember Nations pointed out the street is already named for the Stemme family and felt it should not be renamed. She also noted that there is a specific location at City Hall to memorialize Councilmembers, volunteers and employees who have passed while in service to the City.

IV. OTHER

Ms. Aimee Nassif, Planning and Development Services Director, presented updates on the following projects:

WARD I: PROJECT UPDATE

- There is a proposal for new homes off of Olive Boulevard between Glenfield Ridge Court and Stablestone Drive.
- Zoning map amendment for 3 parcels – zoning to R-2 district. Applicant is Fischer & Frichtel.
- Zoning map amendment for Monsanto Chesterfield Campus to "UC" District. Public Hearing held August 10, 2015. Several items still under review with Staff.

WARD II: PROJECT UPDATE

- Kraus Farm Center amended SDCP and ASDSP – 149,669 sq. ft. 4-story office building. Under review by Staff.
- The Grove – 96-bed assisted living development. SDP under review with Staff.
- Watermark Residential. Meetings underway with applicants for new multi-family development. Use already permitted under existing zoning.

WARD IV: PROJECT UPDATE

- New Brew Hub located at 806 Spirit of St. Louis Boulevard.
- Kemp Auto Museum and Johnny Y properties – both in for Ordinance amendments to add uses.

OTHER PROJECTS UNDER REVIEW

- Barat Academy site plan
- Long Road Crossing (Ameren Substation)
- Bur Oaks improvement plans
- Courtyard by Marriot improvement plans
- Edison Express improvement plans
- St. Luke's improvement plans
- Holiday Inn Express
- Telecommunication siting permits
- Highland on Conway
- Brattle Hill
- Bonhomme Presbyterian Church
- Chesterfield Airport Service-17909 Chesterfield Airport Road
- Regions Bank amended lighting plan
- Autozone SDCP and SDSP
- Arbors at Kehrs Mill

V. ADJOURNMENT

The meeting adjourned at 6:31 p.m.