

City of Columbus
Road Improvement Project #14-01
177th Lane –Heidelberg-178th Lane
And
Road Improvement Project #14-02
Bender Street between 181st and 184th Avenue
Public Hearing
October 23, 2014

The Road improvement project #14-01 177th Lane –177th Lane –Heidelberg-178th Lane Assessment Hearing was called to order at 7:10 p.m. by Mayor Dave Povolny at the City Hall. Present were Council Members Denny Peterson, Jessie Messina (7:32), Jeff Duraine. City Administrator Elizabeth Mursko; Engineer Larry Bohrer and Deputy Clerk Lorie Lemieux.

Absent: Council Member Bill Krebs

Also in attendance were: Arlie Post, Jim Pleski, Angie Boesch, Patricia Boesch, Art Erickson, Gerry Dubay, Norm Fedun, Rayette & Gary Mayen, Steve Johnson, Doug Palmer, Jeff Pasuck, Mike Splett, Deb Colling, Steve Erickson, and Paul Ringell - Forest Lake Times.

Motion by Duraine to approve the agenda. Second by Peterson. Motion Carried

A public hearing was held at this time to receive testimony for the 177th Lane –Heidelberg-178th Lane road improvement project #14-01.

The reading of the public notice was waived; however, it will be part of the record.

The Engineer, Larry Bohrer, began stating that the notice was published in the Forest Lake Times and mailed to each property owner along with an estimated assessment roll. Bohrer communicated that the project is going a little slower than expected, however, both neighborhoods are paved and they are now working on the shoulders and driveways. Bohrer proceeded with a presentation displaying a copy of the project costs. The Engineer reviewed and explained the project costs with those in attendance. The total final project cost was \$204,769.69. The method of financing is through special assessments and the method of assessment is per lot; whereas there are 33 lots of record. Bohrer informed that the actual assessment per lot is \$6,205.14/ lot (the estimated amount was \$8,185.00/lot).

Mayor Povolny opened the public hearing at 7:17 pm

Comments from the audience:

Deb Colling - 8244 177th Lane

“I made a few phone calls about the work that was done as I was unable to attend the other meetings as they were held on church nights so this is the first opportunity to say something except for I did speak to someone in the city before. The information that I have, granted it is late in the game as the work has already been done, is that the assessments are to be by lineal footage and not by lot and would like to know why that decision was made”.

Bohrer: That is not the policy of the City of Columbus.

Colling: That is what the county had told me the legal policy is.

Mayor Povolny: The County or the City?

Colling: The County told me that. The City also told me it would need 51% positive voteage by affected property owners, that didn't happen either with my understanding.

Mayor Povolny. That is a recommendation. The process of collecting the votes is somewhat arbitrarily and the final decision is a council decision.

Colling. Arbitrarily was a word used by the city staff which is highly questionable. There is either a process or there isn't a process. Given the notices that we were allowed and the time frame to return the notices was hours, matter of hours is what we got and that is only if you could manage to get to city hall in time.

At this time Administrator Mursko explained that these projects were accelerated projects due to the time frame of when the request came in and having to send out notices and get the assessments certified to the county. Mursko further explained that there is a process that is required legally and a process that they have put in place by policy. The City is not required to hold a neighborhood meeting or send out petitions, however these resources help the council get feedback to evaluate whether there is a majority in favor of the project from the neighborhood. This project met more than 50% in favor it was actually 51% and this is the policy that the city has set and theoretically by law the State requirement is 35% for 4/5 majority vote. .

Mayor Povolny. Elizabeth what was the time frame?

Mursko. If I recall there was a window of a week to get the petitions back to give you feed back as to how many people were in favor or not in favor, but again that is a guideline. A public hearing is set for people who object or want to put their position. With that regard we held the public hearing and you could have done it by letters or email we accepted all modes for people to be represented at the hearing and this is where you put your approval or non approval how you feel about the project on the record.

Colling. Well I did send letters I don't know if they got entered into the record and I questioned also why the hurry and wait another year to meet the dates that we were legal required to. We had hours to return the petitions because we were out of town it was the middle of summer, it **doesn't work**.

Povolny: It did work for the work for the city and for most of the residents because we combined projects together and that's how we were able to a \$2,000.00 savings per resident.

Colling This is not a matter of sour grapes. I'm trying to figure out why the procedures the County is telling me didn't happen and the procedures the City is telling me didn't happen. That's what I want to know. The road is done it's there. I object and I will be filling an objection to the assessment for us. We have 33 feet at best of footage, at best. Tell me what value are we going to get for that. If it costs the same amount of money to maintain this road as an asphalt road why are we being subjected to a fee that will cost us thousands of dollars this is our retirement money for this year that will not affect our property by that amount of money. I simply don't understand. Thank you.

Bohrer. I can speak to the assessment policy. I would like to know who you talked to at the county because the county does not set assessment policy, individual cities do. The theory in Columbus is, the benefit to your property, regardless whether you have 33 feet or 133 feet, is you having an improved paved access to your lot and that's the benefit and the benefit doesn't change according to the size of your property. I have been with the city for 15 years and we have done about a dozen road improvements and everyone has been done on a per lot basis.

Colling. When we first moved here, almost 25 years ago the first one or two were done by footage and that was before your time.

Mursko. And 25 years ago that was the only method they chose by lineal feet, however in 2003 the policy changed to a per lot basis.

Colling So we are essentially paying for two lots that don't want to pay the rest of us are footing the bill. Two lots are being left out of the assessments.

Bohrer. (pointing to the properties mentioned) This lot is unbuildable because most of it is wetland.

Colling. Well much of my land is unbuildable as well.

Bohrer. But you have a house on it. The definition of "benefit" that the City has adopted is if you gain access from the road that is proposed to be improved and your driveway and address from that road, then you are considered benefiting from the improvement.

Colling. So the process, somebody tell me when I have to deliver my letter for objection.

Bohrer. Tonight. It needs to be delivered to the Mayor.

Colling. And the post office people are complaining. We aren't get newspapers and they are not delivering mail. And we are getting complaint letters.

Rayette and Gary Mayen – 8526 177th Lane NE

Rayette. I was just wondering, do we have to go with your mailbox?

Engineer Bohrer. No you do not, you can go with any post that the post office approves.

Mursko added if it meets the dimensional requirements that are on the web site, you can put up your own post, the wing of the snow plow has to be able to go under the mailbox otherwise they go around. And the city has them available for \$71.78. Bohrer noted that originally it was purposed to replace all of the mailbox posts under the construction contract, which required you to have to buy a swing away stand. He also stated the reasons for the need of having the mailboxes relocated because the road has changed.

Gary Mayen. I did want to come here tonight to get feedback on the process. I stopped by a week after the official petition deadline and it was 13 for 11 against and 6 not returned. And you told me the deadline was extended.

Mursko explained it wasn't extended, she just got messages from residents that they were gone or were unable to return it and wanted to return it that we would accept them. The council had already looked at them but this way they could have their selection on the record.

Gary Mayen. The non returned were they zeros or were they counted against?

Mursko. The council only counted the ones that were returned.

Gary Mayen. My concern before and still is the speed on the road. The speeds increasing by service and delivery vehicles, the process for complaining if becomes an ongoing issue?

Povolny. There are no stripes on the road, if we did stripe it I know there has been a psychological effect of having a narrow striped road. Possibly the edge stripping would be of value here.

Gary Mayen. At the original meeting there was talk about posting the speed and there seemed to be some reluctance to that. Would there be a reason the city does not want to post it?

Bohrer. For a residential area statutory speed limit is 30 mph. There is a driveway spacing requirement. We would need to see if that meets that requirement. Unless you have a speed zone study done by the Department of Transportation and if you don't meet the definition for residential street that you can post at 30 mph then the speed limit is 55 mph.

Duraine. But they are your neighbors you would think they would slow down. I would like to see it posted at 25/30

Rayette Mayen. I would like to see it posted.

Duraine. I would too. I have looked at speed studies before, it's a hassle to get it done but I think we can do it. I will check into it.

Povolny. Ok that will be the process.

Doug Palmer 8353 177th

Palmer. I am absolutely totally pleased with what's gone on. The neighborhood looks completely different. The dirt is gone forever, thank goodness. I see people walking, kids riding scooters. I see a lot more people out enjoying the neighborhood. It looks clean. I think the company that is doing the job is doing a fantastic job.

Bohrer interjected "by the way they will sweep the road when they are done".

Palmer. That was one of my questions. I have no complaints at all. I am another one that didn't get my order in for the mailbox so if you can still get one, I would like one. I am just so happy the ways things have gone the way they have and waiting another year for this was just out of the question for me since I am the one who real instigated everything. If we had to wait another year that would mean another winter of complete ice sheets on the road, in the spring mud holes and another whole summer with dirt, so thank you so much for getting this done.

Povolny. Are you concerned about the speed?

Palmer. Well it is true that everybody in neighborhood is pretty much driving ok. I think the top speed there should be 30. We do have service trucks and UPS that come down there but I'll tell you the school buses they haul butt down there and they need to get notified to slow down. I just can't imagine a neighborhood like ours would pass as a 50/55 mph zone.

Povolny. Do you think a sign at the beginning of each one of the roads would help? Like Slow – Children at play.

Palmer. Everyone is out there enjoying it. That would be fantastic and I think a speed zone would be appropriate to put the icing on the cake.

Povolny. Anyone else? Ok Public Hearing is closed.

Public Hearing was closed at closed at 7:42 p.m.

Motion ADM 05000 ASG 01600 by Peterson to adopt Resolution 14-28. A Resolution Adopting Assessments and Assessment Roll as presented for the road improvement project #14-01, 177th Lane –Heidelberg-178th Lane. Second by Duraine. Votes as follows: Peterson - Aye Messina -Aye; Duraine – Aye; Povolny - Aye. Motion carried.

A public hearing was held at this time to receive testimony for the Bender Street and 184th Ave. road improvement project #14-02.

The Engineer began with a presentation by displaying a copy of the project costs. The Engineer reviewed the project costs and noted that there is a direct and indirect assessment. The total final project cost was \$139,357.57. The method of financing is through special assessments and the method of assessment is per lot; whereas there are 20 direct lots of record and 2 indirect lots of record. Bohrer informed that the actual assessment per direct lot is \$6,636.08 / lot (the estimated amount was \$8,581.00/lot) and the indirect assessment is \$3,318.04 per lot (the estimated amount was \$4,291.00/lot).

Mayor opened the hearing to the public for input at 7:48 p.m.

Comments from the audience:

Arlie Post – 9241 181st Ave.

Gentlemen, I submitted a letter a couple days ago. I think you each got one. (Council members stated that they have it in front of them; letter will be submitted as part of record). My argument is just to, I am willing to be assessed for one. I am not arguing that. I'm just arguing to be considered equal to everyone on the street. You just made a comment speaking to the previous people that the benefit doesn't change based on the size of the lot. So why am I being charged because I have a larger lot, twice the amount that anyone else is. The benefit for me I feel will not be doubled, because I have no intention of splitting. (Ms. Post asked to illustrate where her property is on the map and pointed to an area that she stated is so wet that her horses sink up to their bellies by almost mid July so it is not feasible to build out there and then you have the pipeline running through). If you take that thought in mind putting up have two lots you would have pipeline running through the front and have nothing but a swamp in the back, not buildable. I don't see anyone in their right mind would want to buy this. If possible if ever I would divide it, it would be one unit. That is my argument, I have no intention of ever selling. If I did the research it would cost me \$7,000 - \$8,000 just to be able to get it assessed to divide. My mother in Bemidji just sold her property and it was \$1,500 and that includes the surveyor fees. I have no intentions, we are using that property the wet half has horse pasture, and the east side is currently partial goat and partial horse pasture with plans to expand the goat pasture back there. I'm not looking at selling. I am looking at using the land as a whole. We have had the property in our family since 64. This is a third generation owning and farming it. I don't see us ever selling it at least certain not dividing it up to sell it.

Povolny. But when it does get divided in the future. Your contention is you would never sell it.

Post: I would never parcel it out. I would sell it as a 20 piece possibly.

Povolny: But the next person may. And the next person will pay more for it because of a paved road. And they would be able to have how many houses here Larry?

Bohrer proceeded to use the diagram to illustrate. Looking at the raw 20 acres with the pipeline that goes through many lots and using the zoning code with road frontage and 5 acre requirement, you could

possibly get 4 different combinations with buildable lots.

Povolny. The question is, Elizabeth, is there such a covenant that says you won't divide your land?

Mursko. You would have to ask our attorney if there is something you can record on the property that basically says the property can't be divided unless the assessment is paid. I don't know if there is such a thing.

Povolny. Here's the thing, theoretically you have 4 lots, if at some time you or the next person decides to this, it would not be fair to those who had to pay a higher value because you did not pay for those assessments.

Post. Why is it fair that I have to pay twice when nobody else on the road does? I don't even live on the road. I don't access the road. I have been monitoring it we don't drive on it, not even with a four wheeler or a lawnmower, not even once, and I'm being assessed double to what everybody else is and I do not access that road. Regardless of the future. I do not have a crystal ball.

Povolny. The way the rules are and in the future, you are allowed to do that, now if you want to not be allowed to do that, would you be ok with signing.

Post. I would sign something that says something that states I will never divide it and I will sell the lot as a whole.

Povolny. And when you sell the lot it can't be divided.

Post. Can I do that? Can I do that to other people? I don't know. I am will sign that saying I will sell it as a whole.

Povolny. I don't think that can be accomplished.

Post. I know there are people who have acreage that can only be used in certain ways written in their wills and held up legally. I am not a lawyer. I don't know the details but I have certainly heard it happening.

Mursko. We can talk to Bill. The only other way of doing this is you would put restrictions on this lot that there would only be one new lot on Bender Street. She is not objecting to paying one assessment on Bender she is objecting to paying 2. So you would restrict it to only one new lot on Bender. We are saying she can potentially have two lots on Bender with access to Bender and we would limit it to one. You are not limiting that it can never be subdivided you are limiting it to how many lots can be on Bender Street. She is agreeing to yes, I can get one lot on Bender.

Povolny. One lot on Bender - would not be an objection to you?

Post. No. If you would look at the letter, I am not objecting to paying for one assessment. I am objecting to paying double from what everybody else is paying.

Peterson. Who would pick up the other \$6,600.00. We would have to do redo this meeting all over again.

Povolny. I don't think we would have to do the meeting all over again, we would take that number and divide it, what would that number be?

Mursko. The notice was higher than that so we would not have to do the hearing but the assessment roll would have to be redone.

Bohrer. That would raise the individual assessment to \$6,967.88. And the two indirect lots would be half of that, \$3,483.94.

Peterson: You know in doing this you are cutting the price of your property down a whole lot if you do decide to split it.

Post. You guys I am telling you, I am not going to split it.

Peterson. We had a woman 10 years ago tell us she is not going to split her property when we put black top in now she came in her last year to split her property. That was then this is now. Things change. This property here you are cutting the value of it.

Post Possibly. I don't think I agree with you. Because the other thing the value of the road improvement only brings up the price of the value of the property 5-6% per the realtors I spoke to in this area. I don't see how changing from one lot on Bender and three on 181st is making any difference if I were to divide it that way. I don't have intentions of dividing it. The division was brought up by your Engineer, and by you guys, not by me.

Bohrer. It is by the definition that I showed on the bottom that was used on all the other road improvements.

Povolny. K do you have anything else to add?

Post. Not really.

Povolny. Ok Thank you. Anyone else here to testify?

Mursko commented to the Mayor and Council members for the record that there were two (2) letters of objection (which are required) to the assessments in their agenda packet. One from Ms. Post, whom spoke this evening, and one from Terry L. Baty and Gail L. Lunneborg-Baty. For the record these Letters of Objection to proposed assessment are accepted.

Povolny. Ok. Public Hearing is closed

Public Hearing was closed at closed at 8:21 p.m.

Discussion

Messina asked if the interest rate is negotiable. Povolny stated that the Bond had already been bought at an agreed upon rate and that residents have the option to pay up front and get their own financing.

Motion ADM 05000 ASG 01600 by Peterson to adopt Resolution 14-29 A Resolution Adopting Assessments and Assessment Roll as presented for the road improvement project #14-02, Bender Street and 184th Avenue North of 181st Avenue. Second by Messina. Votes as follows: Peterson – Aye, Messina -Aye; Duraine – Abstain, Povolny - Aye. Motion carried.

Motion by Duraine to adjourn at 8:37 pm. Second by Messina.

Respectfully Submitted:

Lorie A. Lemieux Deputy Clerk

