

**STREETS AND SANITATION COMMITTEE
MEETING MINUTES**

*September 12, 2011
6:30 p.m.*

MEMBERS PRESENT

Dave Soeldner
Jason Sladky
Jim Brey
Alex Olson
Allan Schema

STAFF PRESENT

Val Mellon
Sonja Birr
Juliana Ruenzel
Brian Helminger
Greg Minikel

OTHERS

Ron Kaminski, Attorney
Dave & Sandy Boehm, 5123 Remiker
Theresa Schmelzle, 5124 Remiker
Dave Pawlowski, Attorney
Dean Schultz, 4916 Roneta
Jessica Schultz, 4916 Roneta
Deborah Bellard, 5106 Remiker
Tim Kaiser, 4251 Last Ct
Mike Check, 9140 Hilltop Rd
Josh Straudel, 3329 Branch River
David Korte, 2344 Hwy 42
Claude Barta, 1933 Cappaert
Donald Schanke, 4816 Plank Rd
Joan Schanke, 4816 Plank Rd

MEMBERS ABSENT

Approval of the Minutes from 8/22/11

A. Schema made a motion to approve the minutes from the August 22, 2011 meeting. A. Olson seconded the motion. Motion carried unanimously, no further discussion.

Discussion and possible action regarding Remiker Lane

D. Soeldner welcomed everyone to the meeting and informed the Attorneys and members of the audience that he doesn't want to talk about past issues. He wants to stay focused on the access to Remiker Lane issue. Attorney Kaminski, representation for Remiker Lane residents, started off the discussion with his findings. Attorney Kaminski said that Mr. Dean Schultz established his own access onto Remiker Lane. The area isn't City property and is dedicated for use of a street to be developed in the future. A temporary access easement was granted for the turnaround. Mr. Schultz is entering in the public right-of-way and does not hold the necessary easement agreement with the City. Atty Kaminski said that this is significant to the property owners, as they pay property taxes and he has not been a good neighbor. There have been many negative impacts. Atty Kaminski stated that his judgment is that you can not access private property owned by City that has not been improved.

Atty Pawlowski, representing Dean Schultz, explained that he received very late notice of the meeting and wasn't allowed much time to gather his information. In the end, his hope is for his client, Dean Schultz, and Remiker Lane residents to get along. To his understanding, all the necessary permits and documents were obtained according to the Engineering Dept. at the time the permit for the driveway was approved. The Engineering staff also approved the location of the driveway; however, if another process is required, it would only be fair to allow

Mr. Schultz the opportunity to obtain these documents. Atty Pawlowski disagreed with some of Atty Kaminski's arguments. He went on to say that on the City Official Map it shows a street, it may not be developed for some time; however it is not fair to assume it is a cul-de-sac street. A concrete approach is not allowed until curb, gutter and the street is paved. There are many places not in compliance and his client should not be a target. Lastly, Mr. Schultz pays taxes in the Township in which he lives.

Atty Pawlowski said they will work with Engineering Dept to make any adjustments or changes. He recommends being given a fair chance.

City Atty Juliana Ruenzel said that there shouldn't be discrimination. There are many properties that have driveways up to the City right-of-way and many properties with a gap of unimproved right-of-way that don't require agreements. However, if there are bigger improvements, such as blacktopping a driveway, the City does require a temporary access easement agreement.

The City doesn't have a written policy, it typically handles these situations on a case by case basis.

G. Minikel said that Mr. Check (Oak Park Developers) Quit Claim Deeded his land to the City in 2005, after which the temporary easement for the turnaround was no longer effective/valid. Since, the area was now street Right-of-Way (R/W), there was no longer a need for the easement. He doesn't know of any street where pavement is placed up to the property line and therefore all properties would have a portion of unimproved R/W that property owners are accessing or driving over. This was probably the first driveway permit that has been brought to the Committee for approval. Typically, these sidewalk/driveway permits are approved by the Engineering Dept. (staff) level.

Atty Kaminski said that we are talking about an unimproved street. He said that according to the Municipal Code it is required to be improved with concrete.

Atty Ruenzel said that it is improved where there is asphalt. It is the city's discretion if it is paved in concrete or asphalt.

D. Soeldner asked if this hadn't been paved, would this be a different situation. Atty Ruenzel said that it would be, but then after further discussion with the V. Mellon decided gravel would be considered an improvement as well.

Mr. Kaminski disagreed with the City's definition of an improved street. An improved street is one in which can be used safely by the public. We are discussing the right-of-way and an unimproved right-of-way should not be traveled on.

D. Soeldner questioned if a reason to deny access be made solely on an established nuisance.

Atty Ruenzel said that there are cautions when establishing a nuisance.

A. Schema questioned the other lawn care companies, would they be considered a nuisance as well.

Atty Pawlowski said that Mr. Schultz's Conditional Use Permit with the Town was reapproved for another year in August 2011. He also stated that when trying to define a nuisance, one must be legal and specific.

Atty Kaminski said he doesn't feel just anyone can drive over unimproved right-of-way and would like on the record that he has not once mentioned nuisance. D. Soeldner agreed that he brought it up to investigate the possibilities of a possible nuisance to allow the Committee to deny access to Mr. Schultz.

Further discussion was held in regards to the cul-de-sac on Remiker Lane and the definition of improved and unimproved right-of-way. The Engineering Dept said again, that in any subdivision, improvements aren't made to the property line. In addition, subdivision streets typically remain as gravel streets for 2-3 years prior to concrete paving. If Atty. Kaminski's reasoning is valid, then every property in the city would require the access easement over unimproved R/W.

In conclusion, D. Soeldner would like to research more and also take a look at the documented police reports/history regarding Remiker Lane and Dean Schultz over the next few weeks or months to possibly try to establish a nuisance to deny access to Mr. Dean Schultz to Remiker Lane.

Atty Pawlowski requested that the Committee provide a report of any research in a timely manner and that Atty Ruenzel advise the Committee with any work/research that is done. Atty Pawlowski said that he doesn't feel it is the Committee responsibility to establish a nuisance. D. Soeldner said that they have an obligation to the City tax payers.

This will be brought back at a future meeting.

Discussion and possible action regarding closure of Plank Road

G. Minikel was looking for an update, from Chairman Dave Korte, on the status of the Town's meeting on August 9th. D. Korte said that it was voted on by the Town to keep Plank Road closed.

D. Soeldner said that this is not a city issue.

G. Minikel explained that we put up the barricades approximately 200 feet west of Cappaert Road for public safety and convenience. The barricades could have been installed at the City Limits line, which is located at approximately the center of the curve about 1,200 feet west

of Cappaert Road. Perhaps, this caused some confusion for the residents.

J. Sladky said that everyone is blaming the City.

J. Brey apologized for not attending the Town meeting. He felt that the City's portion of Plank Road is in satisfactory condition and does not feel it is necessary to close down the City portion or contribute towards fixing Plank Road.

A few property owners were present to discuss their displeasure with the closure of Plank Road.

D. Soeldner understands the anger; however, the choice to close Plank Road was the Town of Rapids. D. Korte doesn't want to discuss unless in closed session.

J. Sladky said he understands the position of the Town of Rapids; however, due to the city's budget crisis, he can't see making improvements at this time, with an exception for minor patches.

Discussion and possible action on re-ditching Last Court

Tim Kaiser was present to discuss the City's standing since the last meeting. The DNR informed the City that a permit would not be necessary for the proposed dredging of the existing ditch east of Last Court. G. Minikel explained that we will need to obtain a 30 foot wide permanent easement from Mr. Tony Butala in order to dredge the portion of the ditch that is on his property. G. Minikel stated that we would look at making the ditch similar in width to what was done to the ditch upstream between Knuell and Kellner St. in 2008. The approximate cost for this project is estimated to be approximately \$30,000 and he discussed the 2012 budget line that we propose to use for this work. J. Sladky would like to keep this project under \$30,000 by possibly doing the work with DPW employees.

V. Mellon said that according to R. Junk, if we would need to haul material out, it would be best to contract out.

Discussion was held to determine the best way to get to the area and how much of an area would be dredged. The water needs to flow to the main channel by making the ditch big enough to accommodate the water.

Mr. Kaiser's concern was with the water running between the houses and over the curb.

It was recommended get the approval from Mr. Butala to access his property and for a permanent 30' easement. This will be brought back to the next meeting and the work wouldn't be done until the 2012 construction season.

Discussion and possible action on the proposed sanitary system charges

Brian Helminger was present to discuss the proposed sewer rate increases of 14.5% as was introduced at the last Council Meeting. This is due to the closing of Busch Ag. The current rates are below average according to Brian Helminger. A typical sewer charge is \$23.18 with the proposed increase to \$27.10.

He also explained other ways the Wastewater Plant has been collecting revenues. However, there are no legal agreements at this time. The Wastewater Treatment Facility is losing money and needs this increase approved or the rate percentage will increase.

Discussion and possible action on assessment letter notification to property owners for 2012 Capital projects

G. Minikel asked if we should send out letters to property owners to give them more notice of the upcoming Capital projects that will take place.

J. Brey said that we need a budget from the Mayor.

D. Soeldner recommended keeping the Internet up to speed.

No further discussion.

Discussion and possible action regarding winter snow shoveling fine procedure

Tabled until next meeting

Discussion and possible action of Resolution requiring landowners to pay for repairs to laterals

Tabled until next meeting.

Discussion and follow-up on street sweeper ride-alongs and possible action on street sweeper job duties

Tabled until next meeting.

Discussion and possible action on adding into the Ordinance a clause for alleys and how we assess them

Tabled until next meeting.

Discussion and possible action on Street Sweeping Parking Ticket Fines

Tabled until next meeting.

A. Olson made a motion to adjourn at 8:15 p.m.

J. Sladky seconded the motion



Valerie Mellon, P.E.
Director of Public Works
and City Engineer