

**STREETS AND SANITATION COMMITTEE
MEETING MINUTES**

January 9, 2012
6:30 p.m.

MEMBERS PRESENT

Dave Soeldner
Jim Brey
Jason Sladky (left at 6:55)
Alex Olson

STAFF PRESENT

Val Mellon
Greg Minikel
Randy Junk
Juliana Ruenzel

OTHERS

Paul Steinbrecher, SMI
Michael Check, 9140 Hilltop Rd
Ron Kaminski, Attorney
David Boehm, 5123 Remiker Ln
David Pawlowski, Attorney
Ashley Schultz, 4916 Roneta Ln
Dean Schultz, 4916 Roneta Ln
Deborah Belland, 5106 Remiker Ln

MEMBERS ABSENT

Allan Schema

Approval of the Minutes from 12/12/11

J. Brey made a motion to approve the minutes from the December 12, 2011 meeting. J. Sladky seconded the motion.

Motion carried unanimously, no further discussion.

Discussion and possible action regarding access to the Remiker Lane Right-of-Way at the Unnamed North-South Street

Attorney Kaminski thought it would be appropriate to have P. Steinbrecher who was responsible for designing this subdivision and who actually generated the 2 foot separation explain where it is and why it was put there. There was a very specific intention to have that restrict access onto Remiker Lane.

P. Steinbrecher explained that back in 1996 when they did River Ridge Subdivision No. 2, they needed to put in a temporary turnaround at the end of a very long street. A temporary turnaround can be built on either undedicated or dedicated right-of-way. At the request of the developer, they kept that temporary turnaround 2 feet from the property line to restrict access from the property to the west. At that time, the north/south unnamed street was not dedicated. The recorded plat at the court house shows the 2 foot gap between the end of the turnaround and the property line. In 2001, River Ridge Subdivision No. 3 was built and that is when the north/south street was dedicated. (Note: We looked up the quit claim deed (dedication) it was actually recorded at the Register of Deeds Office on 7/21/2005). The temporary turn around easement is still in effect because that right-of-way is not improved. Otherwise, any access on that right-of-way would need the access across unimproved right-of-way agreement.

G. Minikel stated that the 2 foot strip is still within the public right-of-way.

D. Soeldner asked Attorney Ruenzel if when that 2 foot strip was still in private hands, could they have restricted access and did that change when it became public even though it was unimproved right-of-way?

Attorney Ruenzel stated that they would have had to put that restriction in the transfer of property deed. If there were no restrictions in that deed then there are no restrictions. She is not aware of any law that requires an access document that allows access over unimproved right-of-way. This is a document the City uses to keep a record of these situations and it gives a person (grantee) rights to use the property.

Attorney Kaminski stated that in his opinion, when Mr. Schultz received a driveway permit he felt that is what gave him the permit to cross that right-of-way. But Attorney Kaminski believes that permit was issued illegally because his interpretation of the City Code requires curb and gutter before you do that and the permit says that the improvements, if the permit is granted, must be completed in the year the permit was granted. That was in 2008 and it has not been improved so it doesn't exist.

D. Soeldner asked Attorney Ruenzel if the fact that they didn't pave a driveway prevent them from accessing over unimproved right-of-way.

Attorney Ruenzel stated that it is still City property. The City has the right to control their property and allow access if they choose to allow access. If the City did issue a permit where maybe they shouldn't have, that is really a technical error. The Council creates the law and may have violated one of their own rules, but also has the authority to make exceptions to the rules.

Attorney Kaminski stated that if Council has that authority, we are not going to argue with that. The Council has to make the political decision as to whether or not they should grant that under these circumstances in which so many property owners invested in that area with the understanding that there wasn't going to be a through street. They relied on that and their property values may be negatively impacted because one person chose not to ask for permission and do it his way. He doesn't think that's good policy but that is a political decision.

Attorney Ruenzel reminded them that you still can't discriminate. She pointed out that G. Minikel mentioned in a previous meeting that this happens all over the City where we allow access over unimproved right-of-way like in subdivisions.

G. Minikel stated that we typically use the access over unimproved right-of-way agreements for two reasons, (1) for maintenance issues in that the City will not plow or maintain the area, and (2) that if you place gravel or asphalt in the right-of-way you will not be reimbursed for it when it is removed for the street construction. In this case, I didn't see the need for the access agreement. This seemed like a simple driveway coming

out to the street, no different than any other driveway on a cul-de-sac street with the exception that this one doesn't have curb and gutter yet.

G. Minikel also stated that the access over unimproved right-of-way (R/W) has been typically used in situations where a new garage is located on the unimproved street R/W.

V. Mellon stated that we thought the location of the driveway did not create any sort of safety hazard and was located to best help screen the property with the berm. The way the driveway is located you are looking at a berm versus directly into the property.

Attorney Ruenzel stated that if they start restricting access now after they already granted permission you would actually have to have a hearing.

Attorney Pawlowski stated that his client is not insensitive to the neighborhood regardless of the differences that exist between him and the other personalities that live in the neighborhood. The permit was granted with the intent to allow access. If there is some technical error that needs to be corrected they will cooperate in that process. He takes issue with the comment that Mr. Kaminski made that they ignored the process. They worked with Mr. Minikel to get the permit. Now that the permit has been granted there is recourse for the citizens other than having this committee take action. If there is speeding going on, littering going on, if there are things going on there are ordinances and laws and policeman that should be called. There are rules that govern what can and can't occur and if there are things that are being violated there is a course of action that citizen's in any community can pursue. He feels that it is drastic and inappropriate to look at restricting access that has already been granted. The law is pretty clear as referenced in Attorney Ruenzel's previous memo. He is asking that the committee take no action on this or any further action to try and move toward restricting access.

Attorney Kaminski stated he doesn't think it's appropriate for a public body to promote self help remedies and that the fact of the matter is that the code is the code and if people want to construct they have to do certain things. In this case there was a request for a driveway permit. The minute that that driveway permit was granted Mr. Shultz made it known to everyone in the block that he now has a permit to cross that area and utilize the street as he wants. This is not correct. This is a driveway permit that your code said shall not be granted unless there is curb and gutter and that is not there.

Attorney Pawlowski stated that we have to remember how this was handled in past practice. If the City were to make the decision to finish the curb and gutter on that cul-de-sac that would trigger the time where the City then mandates that the driveway be paved and improved up to code. Regardless of that technicality it doesn't restrict access to the adjoining owner. The City has the right to decide what to do on its property. The intent of what this group decided was to grant access.

D. Soeldner stated that whether or not to pave the driveway is an issue which is not even coming into consideration as to whether or not they had a driveway permit. It's about the legal right to access their property. He stated that the options available to the committee are: 1) make a motion to begin the process to restrict access to Mr. Schultz which would trigger a public hearing, or 2) take no action which means the situation stays as is and the street can still be used in the manner it is right now.

A. Olson stated that he is concerned that by restricting access they will be going against past practice and making a special case so he won't be making a motion.

J. Brey stated that he was here when they made the first/original decision; however, he was not aware of the uproar in the neighborhood and what was going on. Legal Council is telling him not to override this. He will not make a motion or support a motion to override this. He did reiterate that if there are violations in the neighborhood they should call the police.

No further discussion.

The Committee took no action.

Discussion of DPW Staff Implementation

D. Soeldner stated he just wanted this to be a general discussion and he was mainly concerned about the snowplow operations.

J. Brey asked what they are doing right now with no plowing (due to the lack of snow so far this season).

R. Junk stated that they are doing what they normally did with 35 men and are now trying to do it with only 17 men; blacktop (pothole) patching, tree trimming for clearances on all signage, tree trimming for some of the sidewalk clearances that the parks normally does, sanitary sewer maintenance program, just finished catch basin cleaning over the entire City (which they have never completed before because they always ran into snow), taking down Christmas decorations, making necessary repairs to the salt shed, etc. They are busy.

R. Junk stated that there are some things that we haven't gotten to, like the general maintenance of buildings which normally they get to do during the year and in between snow storms. There are things that are normally done that are not getting done.

V. Mellon stated that snow removal will be different this year.

R. Junk stated that they are staffed to the very minimum that he feels they can actually go out and plow snow. This is based on a small 3 to 6 inch snow fall that he thinks they can get to in one night of plowing to the curb. Anything larger than that, it's going to be a lot of on the road, looking at conditions, seeing if they can get through at that period of time plowing to the curb. If not, they are switching over to one cut up and one cut down to provide clear driving lanes and parking lanes will be full of snow until a later time when they can get to it. They are not going to be plowing the downtown in its entirety as they did in the past by pulling everything in the center and picking it up that same night. It is going to be plowed to the sides (parking lane) and then the second night when he has the staff it will be pushed back to the center and picked up. In a large storm it maybe two or more nights.

V. Mellon talked about the priority in regard to the sidewalks. Perimeter sidewalks around a park will be taken care of but the diagonal through will not; that will also be the second night. The Zoo and Cemetery will be closed for a day two or whenever there is time to clear that snow. There will be changes and staff would like the support of the Alderpersons.

A. Olson is expecting the high priority stuff to be done first and that is what they will tell the public if they call.

D. Soeldner stated that he is still fine with overtime during the storm if the guys need to work extra and there is still work to do.

V. Mellon reiterated that overtime will be reserved for priority work for maintaining safe conditions in the main driving lanes.

J. Brey stated that managers just need to use their discretion. They have faith in the managers that they will not intentionally give overtime when it's not needed but there will be times when it's needed.

R. Junk said we need to keep an open mind on this. A storm just isn't a two day event, especially now. When they go into a storm they plow and do the downtown but after that they have islands and parking lots to pickup, corners and turn-outs to clean (3-4 days), salt and sand to haul and re-stock, and snow dumps to maintain which go beyond the storm. There is work but it's not overtime work.

G. Minikel also commented that with the reduced number of mechanics (down from 8 to only 4) and working only one shift (had been 3 shifts) may also effect overtime when there is equipment maintenance and repairs that are typically required after a snow storm. There will be a lot of juggling & constant reprioritizing to keep emergency vehicles for the Police, Fire and Transit as well as fixing the plows.

No further discussion.

Motion to adjourn at 7:05 p.m.

Valerie Mellon, P.E.

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