

Study Meeting
Monday, July 21, 2014
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- | | | |
|-----|--|--|
| 1 | Call to Order - 6:00 PM | <p>Mayor Winstead called the study meeting to order at 6:00 p.m.</p> <p>Present: Councilmembers C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman, and J. Oleson.</p> |
| 2 | INTRODUCTORY | None. |
| 3 | CONSENT BUSINESS | None. |
| 4 | PUBLIC COMMENT PERIOD | None. |
| 5 | HEARINGS/PUBLIC INPUT | None. |
| 6 | ORGANIZATIONAL BUSINESS | |
| 6.1 | Special Assessments Policy Update | <p><u>Requested Action:</u> Provide direction on the Special Assessment Policy amendments regarding properties without street frontage.</p> <p>Shelly Pederson, City Engineer, Jen Desrude, Civil Engineer-Development Coordinator, and Amy Schmidt, Associate City Attorney presented this item. A public hearing was held on December 16, 2013, and Amsden Road was added to the 2014-101 Pavement Management Program (PMP) but no decision was made on how to calculate special assessments on properties that do not have direct frontage on a street. Their joint presentation was as follows:</p> <ul style="list-style-type: none"> ▪ Background & Purpose: <i>(Pederson)</i>
(Discuss Policy Amendment #9. Chapter 429 governs the rules and requirements of public improvements and special assessments. Requires the property receive special benefit from the improvement. Parcels in question use the street but don't have direct frontage on it.) ▪ Types of Parcels Without Direct Street Frontages <i>(Desrude)</i> ▪ Private Street - Single-Family: Mariabo Circle ▪ Private Street - Mixed-Use: Appletree Square ▪ Driveway Easement – Four Plexes ▪ Driveway Easement – Single-Family: <ul style="list-style-type: none"> - Amsden Road - Lyndale/103rd Street - Maple Avenue ▪ 3D Registered Land Survey (RLS) ▪ Government & RR Property |

- Staff Recommendation: (Private Street)
(Properties that function together, similar to an association, staff recommends treating them as one big lot to calculate their Adjusted Front Footage (AFF) and then distribute the assessment based on the association documents.)
 - Example: 34th Avenue

Baloga inquired as to the genesis for 50% rate assessment for multiple-family.

Pederson explained based on the PMP, single-family pays the 25% rate, multi-family or commercial pays the 50% rate.

Baloga asked how those rates were determined.

Mark Bernhardson, City Manager said staff will research it but it goes back to when the policy was developed in 1993.

Winstead said as he recalled, people were thinking of apartments; more commercial in nature as opposed to private residential.

Baloga said the City wants to go to higher densities for residential but the policy is going to treat those people differently from single-family residential with street assessments. In many cases, those people already have the burden of private roads, which they are also maintaining. He said it could be a bit onerous in that respect.

Bernhardson said staff would go back and look at the original documents. It was the number of units on front footage coupled with number of trips. It boils down to what can be proved for value increase. Staff will research it but the PMP Policy is separate from this on how should special assessments be calculated.
 - Cavell: Grouped as one lot.
(Adjusted Front Footage (AFF) = 117 feet. Would be assessed at the 50% rate per PMP ÷ 4. Each would pay \$2,165 per lot for surfacing only.)
 - Mariabo Circle: Option #1
(Grouped as one lot. Take frontage on Amsden Road only calculating the first 150 feet, taking area inside and dividing it by 150 feet = 266 feet AFF. No access onto West Bush Lake Road (WBLR) so no frontage or AFF to be calculated. Using the 25% rate for single-family homes, take the 266 AFF to get the assessment for the grouping of \$9,842 and divide by each lot's association document. Assessments range from \$1,181 to \$2,264.)
 - Mariabo Circle: Option #2
(Take all of the properties that don't have frontage and assume a side to be the frontage; the shortest side per the policy. She listed the frontage amounts for the addresses on Mariabo Circle. Using the 25% rate, the assessments range from \$3,300 to \$5,300.)
- Bernhardson said with Option #1 there would be \$10,000 assessed and with Option #2 about \$25,000 assessed. He said depending on the option that is chosen, it affects the total front footage for the project. With Option #1, everybody else's lots would be a little higher. With Option #2, everybody else's lots would be a little lower.

Desrude said the entire assessed project is a little over \$1 million.

Bernhardson said an argument for Option #1 is that it puts those homes on a par with most other single-family homes.

Amy Schmidt said whichever policy Council chooses, it needs to be a reflection of what the benefit is to the property from the project. She said the Council has the discretion to make a decision as to what the policy should be as long as the analysis is part of the decision and includes some consideration to the benefit that has appreciated to each individual parcel.

Desrude said the Mariabo Circle is a very unique situation.

Baloga asked for confirmation that the Mariabo Circle addresses were not assessed for West Bush Lake Road and that was confirmed by Desrude, as there is a non-access easement.

Pederson said these lots are very large and are distinctively different than townhomes.

Baloga expressed concern for a challenge based on the equity. These are a group of homes that function very similar to an association.

Bernhardson said the primary basis for an appeal is the value added; benefit shown. It doesn't go to an equal treatment argument with other properties. These are single-family homes so they are treated similarly to other single-family homes.

- Staff Recommendation: Amsden Road (Common Driveway)
(Amended policy – as if they faced a street. The AFF for the three addresses would be as follows: 8519 = 116 feet of AFF; 8521 = 126 feet of AFF; and 8523 = 160 feet of AFF. She showed other examples of properties with a common driveway.)
- Staff Recommendation: (3D RLS)
(They're not addressed in the policy. Similar to an association, use their maintenance documents to split the assessment. If there is no split in the documents, staff would do it based on Floor Area Ratio.)

Carlson said with the amended policy, to provide equity to the parcels that don't fit into current policy is to assume frontage, measure back 150 feet, and apply a percentage based on whether it is more like single-family or more like multi-family.

Oleson asked if it would be reasonable to look at the history on these.

Bernhardson said these are approximately the rates the City has charged for single-family homes. He said in 20 years and 6,000 – 8,000 single-family homes, there has only been one appeal in that period of time and it was regarding the benefit of the assessment. This is a real history of what people feel is a value to their property by these projects.

Schmidt said as she recalled that appeal, the property owner argued he already had a street and shouldn't have to pay for that street to be improved, which results in no benefit to him. That's not a valid reading of the law so the property owner eventually dropped the case before it went to trial.

Oleson said if the policy is amended based on past history and if the City were to apply it to Mariabo Circle, can the City rationalize the higher amount in terms of being fair in terms of the benefit to these particular homes.

Pederson said documentation by appraisers for single-family homes makes it's easy to show there is proof of benefit.

Bernhardson said if you use the Common Driveway approach, there are two choices. He said it's a policy decision and this one is somewhat unique. He said Council might want to do this one and the three lots in the back similarly from an acceptance standpoint.

Schmidt said when it comes to an individual project in front of the Council, if the analysis that was done on the record shows that the Council has taken into consideration that there is a benefit to the property, it is within the Council's discretion to make that determination. If Council makes a record that shows it's considered that in making its decision, it's more defensible from a legal standpoint. She said in defense of these cases, it helps that the City doesn't, as a practice, assess the full project value. As long as Council considers it rationally and has a reasonable basis for its decision, it's more defensible.

Winstead asked why wouldn't the City take anyone who has frontage or access or joint access and just average it out across the board.

Bernhardson said the process has worked but these are unique situations. He said Council can go with either option. Option #1 is more generous to these less expensive assessments totaling \$10,000. They're using Amsden as much as the homes across the street that will be charged at a higher rate not dissimilar to Option #2. With regard to the common driveways, Council wants to amend the policy. The question is should 8519 & 8521 Amsden Road be assessed, which would require a policy amendment. Regarding Mariabo, it's an amended policy in either situation.

Winstead said the current policy is illogical and asked if there was a way to do something such that if you have access to the street, and it's an odd lot, that it is assessed at the lowest average amount of whatever it is.

Pederson said it's in the City's policy to go back 150 feet to get parallel to the street to calculate the frontage. That's how all of the other large lots have been calculated and the City's been consistent on that.

Baloga asked for the difference between a private street and a private driveway because it's how one accesses their living space. He said it's the same but the City treats them grossly different. He said it doesn't seem right to use someone else's association documents to make the City's allocation. The City doesn't know how they arrived at their calculations, etc. and there might not be anything that pertains to the increment and value that is being assessed to them.

Bernhardson asked Baloga what he would propose.

Baloga suggested treating all private streets and private driveways similarly. Take the aggregate land and use it on a per square footage basis to determine what a lot is, as the City has done in other unique situations and assess on that basis.

Bernhardson said the City has dealt from a front footage basis and not from a total lot basis. He said there would be problems going the other way with very deep lots.

Baloga said there is very little difference in how Mariabo Circle and Amsden Road function. When you look at the cost differential in the proposals, there are rather different amounts being assessed for homes that are reasonably equal in value and yet their assessments range from \$1,100 to \$6,500 or five times greater.

Bernhardson suggested taking the recommendation to amend the policy so that all three properties on Amsden are assessed and use the second option on Mariabo Circle. He's not sure Mariabo finds this an acceptable way to allocate it.

Busse said it is agreed something needs to be done with the policy so that 8519 and 8521 Amsden Road are assessed something but there is no perfect solution. He likes the common driveway approach. It's not perfect but it works and it's been working for 20 years. He said keep the equity going. The common driveway keeps it comparable to other lots in the city. It's not arbitrary; it's reasonable.

Winstead asked why this is not a neighborhood of neck lots.

Desrude replied neck lots are no longer Code compliant.

Winstead suggested adding the footages on Amsden, Maple and 106th Street and allocating the assessment. He said all of the construction projects for a particular construction season are thrown into one bucket and allocated back out.

Carlson said the amended policy starts with the basis from the current policy. It's grounded in the historical policy and it's been proven as successful. He said this is a continuation of that.

Lowman said the only problem he has is with 8959 Mariabo Circle because it doesn't meet the eye test but admitted he's not afraid to change the policy. He said there is a long precedent and this makes sense with where the Council is heading.

Winstead said the Council has come to conclusion on how to calculate front footage for an assessment but it hasn't agreed on how to treat single-family, private vs. townhouse private, etc. He said this is the type of policy and procedure that can only ratchet up.

(There was Council consensus on the policy to calculate the footage to do the assessment at the historic rate for the type of property.)

Baloga asked for clarification that these lots will be assessed at 25%. The policy being discussed is the driveway option but it only applies to Mariabo Circle and Amsden for the 2013 PMP assessment.

Pederson said an amended policy would apply for anyone else in a similar situation going forward. She said Pine Hill Road is similar to Mariabo Circle. She said these are the only two on this particular assessment hearing. She said staff will take the Council's feedback and put the policy amendments together. She said they will include it in the City Manager's Information packet. Any questions should be forwarded to the City Manager. She said staff will meet with the Amsden property owners because it will affect them first. Staff will tell them about the public hearing on August 18.

Bernhardson agreed staff should advertise for the August 18th Council meeting understanding it can be continued at that time to the September 8th meeting.

Adjourned Meeting

Mayor Winstead adjourned this portion of the study meeting at 6:54 p.m. and said Study Item 6.2 would be taken upon conclusion of the regular meeting.

Reconvened Meeting

Mayor Winstead reconvened the study meeting at 9:21 p.m.

6.2 2014 Resident Survey Results

Requested Action: Receive the results of the third annual National Citizen Survey of Bloomington residents.

Diann Kirby, Community Services Director presented the survey results and said the survey vendor gives the City the opportunity to benchmark its progress against other cities. She said two actual survey mailings went out. More females filled out the survey than did males and 71% of the respondents own their own home. She distributed the full surveys to the Council.

Comments/inquiries:

Baloga commented streets appear to be an issue of concern.

Bernhardson said staff wants to probe into that. He said they'd like to do a follow-up survey regarding the roads. Are residents concerned about their neighborhood streets or the City, County or State streets? She said it might be worth going back to those people with a follow-up survey.

Baloga said he would support that.

Abrams asked if the City is bound to an April-May survey timeframe.

Kirby explained the City needs to send the results to the State Auditor by July 1. In addition, staff desires to catch the snowbirds when they're in town and before the busy summer vacation period starts.

Bernhardson said the City receives \$11,000 from the State Auditor to get it done in time.

Oleson said changing the timeframe could affect the data collected.

Lowman said he's interested in learning more about the Sense of Community and the Openness and Acceptance of Community, which had a higher ranking in 2013. He said it was the younger participants who thought the City isn't as open and accepting of a community. He said both of those items shocked him.

Carlson said the survey results regarding the community center will help.

Busse commented on the drop in transportation facilities. He believes it's more about increased expectations rather than declining quality services.

Oleson commented the Quality of Life in District IV is significantly down from last year's survey. He said he'd like to get involved with the Human Services "At the Table" get-togethers with the faith community and asked if he could get on a mailing list or attend as a citizen or an observer.

7 ADJOURN

The Mayor adjourned the second portion of the study meeting at 9:54 pm.

Barbara Clawson
Council Secretary