

**CITY COUNCIL WORK SESSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey City Council conducted a City Council Work Session on Tuesday, September 12, 2017, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Acting Mayor John LeTourneau
 Councilmember Mark Kuzma
 Councilmember Chris Riley
 Councilmember Melody Shryock
 Councilmember Kristine Williams

Members Absent: Mayor Strommen
 Councilmember Jill Johns

Also Present: City Administrator Kurtis Ulrich
 Finance Director Diana Lund
 Police Chief Jeff Katers
 Public Works Superintendent Grant Riemer
 Human Resources Manager Colleen Lasher
 Community Development Director Timothy Gladhill
 City Engineer Bruce Westby
 Asst. City Administrator/Economic Development Manager Patrick Brama
 City Attorney Joe Langel

1. CALL TO ORDER

Acting Mayor LeTourneau called the City Council Work Session to order at 5:30 p.m.

2. TOPICS FOR DISCUSSION

2.01: Consider Cost-Share Options to Construct Temporary Potassium Street Cul-De-Sac

City Administrator Ulrich reviewed the staff report.

City Attorney Langel reviewed the history of the easements of records, which were buried during prior transactions involving financial entities that transferred ownership. He stated that there is a history of maintaining and using the road for over three decades and as far as he is concerned this is a public street. He noted that certain actions would require legal action and would have an associated cost.

City Engineer Westby noted that sometimes there has been discussion on the form of the turnaround, the way it was used over the years. He reviewed aerial photographs of the site from previous years, identifying the turnaround area that has been used for over 30 years. He noted

that the conditions were not up to current standards and the proposed cul-de-sac would be constructed to the current standards.

City Attorney Langel stated that the proposed cul-de-sac is not in that location but is actually on the property to the south. He noted that if the property to the west of that location develops in the future, the connection could then be made. He stated that because the proposed cul-de-sac location has been moved from the Schmitz property, only a typical right-of-way easement would remain on the Schmitz property. He stated that the Schmitzs are now asking that they be reimbursed financially for the easement.

Charlie Alden, attorney representing the Schmitzs, stated that he has been working with the Schmitzs for some time and would like to provide a different prospective than the Council has probably heard from staff. He stated that the statute referenced is based on the statement that the City has used and maintained the turnaround for over 30 years, and read the statute aloud. He noted that the turnaround area and area of trash is now the front yard of the Schmitz family. He stated that the City has not maintained this as a public right-of-way and only one trash hauler, Ace Solid Waste, uses that turnaround one day per week. He stated that the City has not used the turnaround to his knowledge and has certainly not maintained the turnaround and the public is not using this roadway. He stated that from their perspective the City is asking a tax paying resident to pay \$21,500 for a cul-de-sac that is not even on their property. He stated that there are two other trash companies which collect trash from other residents on the road and then turnaround in the driveway of the Schmitz's neighbors, while Ace insists on turning around in the Schmitz's front yard. He noted that yesterday Mrs. Schmitz took a video of Ace following the other companies lead and turning around in a neighbor's driveway rather than coming onto the Schmitz property. He noted that when the Schmitzs purchased their property in 2014, there were multiple building permits obtained and none of those permits identified the easements. He stated that this is not a public road and is instead the case of one garbage hauler turning around in the Schmitz's front yard. He encouraged the City to tell Ace to continue to turn around in the same manner they did the previous day which alleviates the issue. He stated that if the City desires the cul-de-sac, they should build it themselves. He stated that the City does not have any legal right to ask the Schmitzs to contribute anything but the family is willing to contribute \$3,000 to just be done with this issue and urged the Council to accept the offer.

Acting Mayor LeTourneau stated that he interpreted this that the Schmitzs are asking them to pay \$21,500 for the cul-de-sac. He stated that the case lays out either accepting the cost-share offer proposed by the Schmitz, proposing a counteroffer, or directing City Attorney Langel to commence declaratory judgment.

Mr. Alden stated that there was an email sent from City Engineer Westby demanding the Schmitzs pay the \$21,500.

City Administrator Ulrich provided clarity on the email that was sent.

Mr. Alden stated that the Schmitzs never agreed to pay the construction costs.

City Administrator Ulrich stated that the Schmitzs have their argument and the decision for the Council tonight is whether they would like to go to court on this matter or accept a counteroffer. He stated that the City is attempting to reach a compromise and staff is aware the Schmitzs did not agree to pay \$21,500. He stated that the full construction costs were not known and therefore the City paid to design the plans in order to determine those costs. He stated that staff feels strongly that each of the points made by Mr. Alden would be disputed by the records of the City. He stated that in a court case each party would be required to pay attorney's fees and therefore perhaps a compromise could be reached.

Mr. Alden noted that in a declaratory judgement case sometimes the losing party can be liable for the other party's legal fees.

City Attorney Langel stated that he is not going to address all of the points made but noted that the City has the opposite opinion on all the points made by Mr. Alden. He stated that a turnaround is necessary and there is not an option to simply not construct one as emergency vehicles will need that element. He noted that when the permits were obtained, the surveyor identified the turnaround.

Councilmember Riley stated that he appreciates that each party has their own opinion on the matter. He stated that there is an existing policy to assess 25 percent of the cost and perhaps that 25 percent be used as a cost-share.

Councilmember Kuzma asked if the turnaround has been plowed in the winter.

Public Works Superintendent Riemer stated that the area used to wash out and therefore crushed asphalt has been brought on the property multiple times. He also identified the location of a culvert that was installed. He noted that plowing has also occurred regularly and the vehicles have GPS tracking which identifies the exact time.

Councilmember Kuzma agreed with the counteroffer of 25 percent for the Schmitzs which follows the current assessment policy.

Councilmember Williams referenced the statement that the Schmitzs are asking that the easement be purchased and asked for clarification.

City Engineer Westby stated that the response from the Schmitzs was that their offer would be to contribute \$3,000 towards the construction but if that offer is accepted, the City would need to state that the City has no recorded easements, and the Schmitzs would not be willing to donate the easement; which leads him to believe that the Schmitzs would want compensation for the easement.

Mrs. Schmitz stated that her husband is out of town and was not able to attend. She stated that as they look back on the records for this area there were easements obtained in 2006 and 2007 for the easements for this road. She stated that those property owners were paid for their easements. She stated that they are willing to pay the \$3,000 to get this matter resolved but they are not willing to spend a lot more money. She stated that if they contribute the \$3,000 they will give

the easement but they then want the City to state that they relinquish any other rights for easements on their property.

Councilmember Kuzma asked what would happen if this were to go to court, whether the Schmitzs would then be liable for the entire cost or the 25 percent cost-share.

City Attorney Langel stated that if the City moves forward with the declaratory judgement and prevails, the turnaround would remain as-is.

Mrs. Schmitz asked if that were the case, would the City then bring the cul-de-sac up to the current standards in that location. She stated that this has been the frustration she has dealt with for the past 20 months.

Councilmember Shryock stated that if this were not occurring the City would then pay for the project and then assess a portion of the cost to the residents on the roadway. She asked if the road is planned to be paved in the future.

Public Works Superintendent Riemer replied that the road is currently gravel and stated that if the property to the west were to develop, the roadway would be paved.

City Attorney Langel stated that if the City were to create the cul-de-sac to current standards, it would be larger than what currently exists.

Councilmember Kuzma asked and received confirmation that if the City were to go to court, the turnaround would remain as is and the City would only be out the cost of court fees.

Councilmember Williams stated that she would not support litigation due to the cost of the project. She stated that she would be inclined to consider the offer if the City is able to obtain typical easements in the future should the road change if the property to the west is to develop to bring the road to current standards. She stated that she would be reluctant for the City to release their rights for easements that may be necessary. She acknowledged that the residents have improved the property. She stated that she would like to resolve the issue without going to court and without relinquishing future rights for easement in the case the road is expanded in the future to meet current road standards. She explained that she would not want the City to incur additional costs in the future to obtain those easements, should they be necessary. She stated that she would be willing to accept the \$3,000 if that also came with the easements that may be needed in the future.

Councilmember Kuzma stated that the City would then have the \$21,000 cost for the cul-de-sac.

Councilmember Williams stated that she is okay accepting that as a cost for the City as a whole rather than one homeowner individually.

Councilmember Shryock agreed with the comments made by Councilmember Williams. She stated that this road will need to be updated and improved and all the residents will take part in that improvement through assessment. She stated that she would support finding a solution that

would be a functional road for equipment and emergency vehicles as needed with flexibility for easement in the future for the roadway improvements that may be necessary. She asked if there is enough easement to support construction of the cul-de-sac on the property to the south.

City Engineer Westby noted that a good portion of the cul-de-sac will reside on the property to the west.

Councilmember Williams received confirmation that the cost for the easement on the property to the west is not included in the project total.

Community Development Director Gladhill stated that there have been discussions with the property owner to the south for the property to the west. He was unsure if there would be a cost to obtain the easement.

Councilmember Kuzma proposed a counteroffer in the range of \$6,000 to \$9,000 and if that is not acceptable he would support moving forward with legal action.

Acting Mayor LeTourneau confirmed that Councilmembers Riley and Kuzma would support a counteroffer equal to the typical assessment rate, while Councilmembers Williams and Shryock would support accepting the \$3,000 with flexibility for future easements. He stated that he does not like the precedent that would be set with accepting the \$3,000 contribution. He stated that he would prefer a reference to consistency and the policy for assessment and therefore would be more inclined to make a counteroffer that would be more in line with the assessment policy.

Councilmember Shryock stated that it appears that this occurred as no fault to anyone that is here. She stated that the Schmitzs were sold the property and somewhere along the line the easement did not show up on their property and stated that she would hate to assess this cost if a future assessment is going to be made in the near future when the road is improved. She stated that maybe the City should maintain some kind of easement access for the future and work to get the turnaround to the west side property, which is where a future road would be placed anyway.

Acting Mayor LeTourneau stated that it would come back to a question of burden and a lot of that is on the homeowner right now, and what they believe is the right use of that road.

Councilmember Kuzma stated that he has heard that this is a public road that the Schmitzs have denied access to and that is where the dispute is.

Councilmember Shryock stated that if the City is comfortable that they can prove this is a public road, that is fine but beyond that point why would there be any need to make other improvements at this time.

Councilmember Kuzma stated that if the City went to court and prevailed, they would not improve the turnaround further.

Acting Mayor LeTourneau stated that he is hearing that Councilmember Shryock is directing this back to legal to ensure the ownership and if they feel that this is a public road then this should go to court.

Councilmember Riley stated that he does not agree with that approach. He stated that everyone would win if this can be settled.

Councilmember Williams stated that the cost to litigate this matter is probably really close to the cost to improve the cul-de-sac and therefore she would be inclined to improve the cul-de-sac.

Councilmember Shryock stated that her position is either that the City back off and construct the cul-de-sac to the west and accept future easements that may be necessary or go to court and prove the land rights.

City Administrator Ulrich stated that the cost for obtaining the easements could be taken off the assessment rate of \$8,100. He noted that typically drainage and utility easements would exist on a property.

It was the consensus of the Council to direct staff to follow the action suggested by City Administrator Ulrich to make a counteroffer to the Schmitzs which would remove the cost for the easements from the typical assessment rate for a project of this cost of \$8,100.

Mrs. Schmitz stated that utility location occurred today and was stated that the City of Ramsey was paying for that. She asked if that was part of this project.

Acting Mayor LeTourneau asked that discussion occur offline in order to move onto the next topic on the agenda.

2.02: Continued Discussion of the General Fund Budget and Tax Levies

Finance Director Lund reviewed the staff report.

Councilmember Riley asked for further clarification on the additional nine hours mentioned.

Finance Director Lund stated that at the last meeting it was mentioned to make the City Clerk position whole. She explained that the City Clerk would be working 20 hours per week, the IT position would fill 11 hours and the nine hours mentioned would make that position whole and is identified as a contingency.

Councilmember Riley stated that it was his belief that another department would be handling licensing and was not sure how the additional nine hours would be needed.

Asst. City Administrator/Economic Development Manager Brama stated that the .2 FTE that is being transferred to community development from the City Clerk is an estimation. He noted that the 11 hours would be transferred from the City Clerk position to the IT position but that position is already busy and therefore there is increased demand. He stated that these are all estimations

and there are unknowns in how the transfer of duties will affect the current job positions and therefore staff estimated the nine hours as a contingency. He noted that staff may not need those additional nine hours but would simply like the contingency for this new process.

Acting Mayor LeTourneau confirmed the consensus of the Council that they are comfortable with the proposed budget and levy, except for Councilmember Riley.

Finance Director Lund stated that the Council will need to circle back to the discussion on the road improvements as this is not working to place the debt onto the levy. She suggested that the discussion occur sooner rather than later.

2.03: Discussion Regarding Staffing During Police Officer Military Deployment

Human Resources Manager Lasher reviewed the staff report.

City Administrator Ulrich stated that staff would recommend filling the lost time with overtime hours.

Councilmember Riley stated that there was a change in the past to upgrade sworn officers to the position of community service officer.

Police Chief Katers stated that there would be some cost to the programs that are offered to put those officers back onto the streets. He noted that the resources can be allocated but it would come at a cost to the programs that are offered. He noted that there are funds available to cover overtime hours to fill those hours and stated that is what staff would recommend. He noted that the calls for service have been increased and the more growth the City sees, the more calls for service the department receives. He noted that this is the first time a City employee has been called for active duty.

Councilmember Williams asked if filling the vacancy with overtime would be received favorably or unfavorably by the officers.

Police Chief Katers stated that in the short-term this would be favorably accepted and this is a temporary deployment. He stated that if the conditions were to change he did not feel the department would feel this is a good long-term solution.

The consensus of the Council was to accept the staff recommendation to fill the vacancy using overtime hours.

3. TOPICS FOR FUTURE DISCUSSION

3.01: Review Future Topics/ Calendar

City Administrator Ulrich reviewed the upcoming worksession topics which include a joint meeting with the Economic Development Authority and then a rescheduled presentation from a representative with the Metropolitan Council.

4. MAYOR / COUNCIL / STAFF INPUT

None.

5. ADJOURNMENT

The Work Session of the City Council was adjourned at 6:50 p.m.

Respectfully submitted,

Kurtis G. Ulrich
City Administrator

ATTEST:

Jo Ann M. Thieling
City Clerk

Drafted by Amanda Staple
TimeSaver Off Site Secretarial, Inc.