

CITY OF SYLVAN LAKE
STUDY SESSION
JANUARY 23, 2007

A Study Session of City Council was held on Wednesday, January 23, 2007, at Sylvan Lutheran Church, 2399 Figa, West Bloomfield, at 7:00 p.m. with Mayor Lorenz presiding.

Present: Shepp, Conkey, Hungerman, Lorenz, Maurina
Absent: None
Also Present: City Manager Martin and Clerk Clippert

Street and Drainage Project Synopsis and Closeout -OHM

S-001-07

John Hiltz, Al McComb and Theresa Samosiuk represented Orchard Hiltz & McCliment. Hiltz gave a brief history where a paving study was done back in 1996. A millage was proposed in 2001, which included full pavement reconstruction. This proposal failed. Council asked to look at a cost effective improvement. Public meetings were held in July and December 2002, ran by Orchard Hiltz. McComb read a summary of a handout that was provided to the residents from the meeting December 2002. There were four options discussed for comparison purposes. The option that had been chosen was the cold in place pavement recycling with a one and one-half-inch bituminous asphalt overlay and no gravel shoulders, at a cost of \$4.25 million. He noted the project was very detailed; the design parameters were very tight for vertical and horizontal construction limits. Hiltz added that ditch enclosures were added after the bid at the request of the property owners. What they didn't do was widen the pavement or shoulders. He also indicated it was cost prohibitive and would require them to take out landscaping.

McComb stated, at one point during the construction they discussed with Martin turning this over to the bonding company because of poor work and work not being completed. He explained that what would happen then is the bonding company would want three reputable contractors who can give a quote for the remaining work to be done and then they would choose the lowest one and have them do it. They felt they were too far down the road to recoup any time that would be of any benefit to the city. They felt it would be better to hash it out with the contractor that was there and move on.

McComb stated work was finalized in August 2006. They don't feel they will be able to get them to do anything more. They have called and written letters to the contractor asking for closeout documents. They haven't responded. Another letter was sent to the contractor and John Martin showing liquidated damages and asking for closeout documents. There are \$72,000 in liquidated damages to the contractor. Another letter was sent to the contractor asking for a closeout schedule and stating they would be turning the job over to the bonding agent. A check would be issued for the final payout, less liquidated damages. They received one letter of response, which didn't address any of these issues.

They are recommending turning this over to the bonding agent. They also suggested first consulting with legal counsel to advise the city. They noted there were a lot of delays with the project and expenses because of these delays, which has left a bad taste with everyone. McComb stated \$91,700 is still owned to the contractor, but less the liquidated damages it would be \$19,700 due.

Hungerman asked the reason why they haven't provided the release forms. McComb stated they haven't received any response from the contractor. Hiltz added they can only speculate that the subcontractors have not gotten paid and they won't sign off to the contractor.

Shepp questioned if the closing documents are a part of the contract. Hiltz confirmed they are. Shepp expressed that they are defaulting on this also. Hiltz agreed.

Lorenz stated he is trying to figure out why there is no sub-base where people filled in their ditch. Sides of the roads are cracking and crumbling. He asked how they were allowed to do what they did. Hiltz explained when they were deepening the ditch, it opened it wider at the top. Lorenz feels this made the roads more unstable by widening the ditches. Hiltz responded the number one value to roads is drainage. He stated, you want to take drainage over the shoulders whenever you can. He doesn't agree that the roads are unstable. He stated the edge cracking happens all the time, even with newly paved streets.

Lorenz shared on Sherwood, Stratford, and portions of Avondale there is no edge cracking, but on Maplewood and others, there is a lot of cracking and asked if it was the type of material used. McComb explained that all the materials used were within accepted parameters of the project. He explained you have to look at the condition and type of native material under the road and how well it and the road drain. There is a mixture of sands and some clay, and that may be some of the reason why there is cracking.

McComb acknowledged there were some areas where they over excavated the ditch area and they had them put the area back, at the contractor's expense.

Lorenz recognized that OHM worked hard on this project.

Shepp asked where they go from here. Hiltz recommended they seek legal counsel first. He explained it is now well into the maintenance portion and the city is going to lose pavement faster if maintenance isn't started. Martin shared it was already budgeted for maintenance in this year's budget. Martin received OHM's material on recommended maintenance. He would like to go over it with them. McComb asked Martin to give him a call. McComb also explained there may be some areas that need patch repairs. The freeze/thaw cycle is severe in Michigan and has a big impact on the life of a road.

Hiltz stated the standard life of asphalt roads is ten years with this type of improvement. Hungerman questioned if the residents were made aware of this at the presentation. Hiltz stated they were.

Maurina asked OHM to rate how viable the solution is which was used. She asked how much they do of this type of improvement. Hiltz confirmed it was a viable solution and core samples were taken in 1996 to evaluate what the city had. McComb added pavement core samples were again taken post construction and they verified they met the requirements of the job. Maurina asked if the other four alternatives were viable and recommended. Hiltz stated he wasn't there, but from the notes he has read, he feels they were clearly explained. Martin stated drainage was pushed because it was a big issue. Shepp stated he feels the residents understood this and expected more from drainage. McComb discussed areas where the water level was an issue. He also explained that the depth of the water mains had to be considered because they had to maintain 4 ½' - 5' of cover over them.

Lorenz questioned what OHM would do differently in the future. Hiltz replied, the duration of the project left a bad taste in everybody's mouth. He feels they got a good value for the city's money. They are using Sylvan Lake as an example for others to come and see. Hiltz stated they would recommend the same thing to the city again. He addressed expectations and having a better understanding of what it is they want accomplished. He doesn't feel the money was spent unwisely. Lorenz feels if they had spent \$1.8 million more for enclosed ditches, it would have been a better investment. Hiltz replied, it is a personal preference and cost was an issue to the residents. Martin added there were several areas where they couldn't construct curb and gutter because of the water table and the residents' yards are lower than the pavement.

Rick Eriksen doesn't feel the residents wanted a cheaper project. He felt the savings was in the economy. He believes shoulders should always be protected and he understands there were select areas that couldn't be. He doesn't believe a design should be where shoulders are not protected.

Maurina asked how many households that are unhappy, could use culverts and what the cost would be for this. Martin estimated around ten households and the cost is \$40-\$50 a foot.

Lorenz addressed how they should proceed. He stated he wouldn't give the money to the bonding agent. He feels they can collect from the city. Lorenz asked if OHM knew of any legal attorneys who deal with this kind of thing. Hiltz replied, the city should consult their municipal attorney. There are attorneys out there and MML would have a list also.

Hiltz stated it is their opinion the project is completed and the city should close it. Martin stated then there is the maintenance bond. Hiltz stated that can only be used for construction

failure and he doesn't feel this is what is happening. Martin agreed he would like to close this out. He will get with Bibeau on it.

City Council addressed the Community Center parking lot left unfinished. Hiltz clarified the parking lot was part of the contract, but the work was not done and was not paid for. Martin added the design was already done by OHM. Hiltz stated they would be happy to help out with this.

Community Center Committee Update

CC-001-07

Theresa Samosiuk, OHM, stated she was asked to look at the proposed building and perform some conceptual grading calculations to determine the impacts to the site if they were to construct a basement. The preliminary grading was based on raising the finished floor elevation approximately 4.5 feet. They addressed four areas where substantial grading would be needed. Martin is concerned with the finished floor elevation.

Lorenz displayed and discussed various plans the committee has been working on. It is a 3,000 square foot building, not including the pavilion, with a double-sided fireplace to be used inside and out. He explained all the options and shared they haven't got costs for anything. There are three doors with exterior access, security doors, restrooms and a kitchen.

Rick Eriksen feels council needs to stick with the plan which was presented to the residents with a fully functional basement.

Conkey feels it is an excellent plan and he agrees to the one level.

Shepp discussed what conceptually they want to do, and what realistically they can do. He stated a basement may not be a realistic achievement.

Hungerman stated he doesn't recall a fully functional basement in the drawings for the ballot. He asked what the architect's opinion is. Maurina explained much of this is coming from them. Martin provided copies of the handout which was sent to residents for the ballot. It stated a possible walkout basement.

Moved by Conkey, seconded Maurina, to extend the study session meeting to 9:30 p.m.

Yes: All

No: None

MOTION CARRIED

Hungerman acknowledged there are a lot of additional costs with having a basement. Lorenz stated the major reason is the grade around the building.

Martin will work with the engineers to see how feasible it is to have.

Boat Dock MDEQ Update **BD-003-07**

Martin reported the application is done and going to the attorney to review and then to the DEQ. He shared he and Hungerman spoke with Phil Thomas and Charlie Mead regarding the application.

He stated the city's approach with the State is that we want what we had (167 spaces with up to two boats per space). The Sylvan-Otter Group doesn't agree with this because the State doesn't allow this. Martin stated he asked them if the State is ok with it, would they be also. He said, Thomas stated they would want to hear this from the State. They won't say that they agree.

Martin stated the attorney is going to set up a meeting with the DEQ and ask them how they feel. If there is a problem then the city's attorney will file an injunction to continue our current docking policy until this is resolved.

Lorenz discussed asking them for the maximum number of boats and thought maybe it would be better to ask for 167 spaces with possible sharing of 50 spaces.

Martin stated the DEQ does not like hearing the complaints from the public. He suggested they hand carry the application to the meeting with the DEQ and then if they don't like it he can take it back and change it. Lorenz liked this idea and asked Martin to ask if the city has been doing this for the last 100 years if a public hearing is still required.

Conkey stated he got a letter Chuck Moss's offices and if there is anything he could do, to just call him.

Lorenz stated Senator Bishop has looked into this also. They did an initial look at this. They spoke with the DEQ and informed Bishop's office that they are set on one boat per slip. Bishop's office will help if the city wants them to. They informed Lorenz that dealing with the DEQ from the political side isn't always the most productive thing to do because the DEQ is their own private thing.

Lakeview Litigation **BD-004-07**

Martin has talked to Bibeau and in the consent judgment, for the Lakeview owners, it states they will have only one boat with a 10-horsepower motor. Council discussed the problem with the residents thinking they own this land. Council agreed to have Phil Seaver look into some deeds of record. Lorenz questioned if Risk Management could help on this. Martin stated he didn't think so.

Hungerman doesn't understand the Lakeview owners asking for reimbursement of fees when they agreed to follow the policy. Martin stated their complaint is with the seawall and it is not addressed in the agreement. Hungerman feels the ultimate solution would be to decide who owns the land.

2007/2008 Budget-Projects and Goals **B-001-07**

Martin read his list of projects and goals. He noted the tennis courts and community center are on hold. Lorenz asked why the tennis courts are. Martin replied, because he doesn't want to redo them and then have the construction of the community center. Council agreed that it is smart to wait. Lorenz clarified that the funds were budgeted. Martin agreed they were.

Conkey requested two budgets, one without the street/drainage and water/sewer projects.

Adjournment

Moved by Hungerman, support Conkey, to adjourn the Study Session Meeting.

Yes: All

No: None

MOTION CARRIED

The study session adjourned at 9:48 p.m.

Dennise Clippert, City Clerk