

MINUTES

DATE: Tuesday, June 3, 2014

MEETING: Winter Park Town Council

PLACE: Town Hall Council Chambers

PRESENT: Mayor Jimmy Lahrman, Mayor Pro Tem Barbara Atwater, Councilors Chris Seemann, Chuck Banks, Nick Kutumbos, Jim Myers, and Mike Periolat, Town Manager Drew Nelson, and Interim Town Clerk Taryn Martin

OTHERS

PRESENT: Town Planner James Shockey, Finance Director Bill Wengert, Police Chief Glen Trainor

Mayor Jimmy Lahrman called the meeting to order at 5:30 pm.

Mayor Lahrman led those present in reciting the Pledge of Allegiance.

2. **Town Hall Meeting**

Mr. Jack Bestall and Mr. Clark Lipscomb were present to give a presentation regarding the Leland Creek Underpass. Mr. Bestall presented a summary of where the Underpass project is at presently, and stated that he wished to bring Council up to speed on new developments. Mr. Bestall reviewed the history of the Underpass project, including past agreements with the Town, and cited the reasons why it is needed. Mr. Bestall noted that because of issues with the application, the UPRR filed for dismissal in 2009 and it was granted by the Public Utilities Commission. Mr. Bestall stated that Mr. Lipscomb then met with Union Pacific Railroad and established a new process, but was forced by UPRR to move the location of the underpass by 300 feet, which caused new analysis and design work to be done. Mr. Bestall noted that he believed this application process to be a much more positive one than the previous.

Mayor Pro-Tem Barbara Atwater asked Mr. Bestall if they are looking to have the Town of Winter Park sign the application along with Cornerstone and the Town of Fraser. Mr. Bestall replied that the application had been provided to the Town with hopes that it would be signed, but that they are prepared to move forward without the signature. Mayor Pro-Tem Atwater asked Mr. Bestall what the Town of Winter Park would be agreeing to. Mr. Bestall replied that the signature would acknowledge that the Town of Winter Park supports the underpass and is conforming with past agreements.

Councilor Chris Seemann stated that part of the agreement is that the at-grade crossing on King's Crossing Road would be closed, and he is not sure if that is something that the Town of Winter Park wants. Manager Drew Nelson stated that the direction that Town staff has received over the past five to six years was to go to other courts to get judgments made so the Town could make progress on other projects. Manager Nelson stated that as this relates to the Public Utilities Commission, the Town has provided comments that certain needs have to be met in order for the application to be signed.

Mayor Jimmy Lahrman stated that the Town started the process with Cornerstone, Fraser, and Union Pacific Railroad in 2004 and that there has not been any development in the ten subsequent years. Mayor Lahrman asked why there is a push for it so suddenly. Mr. Lipscomb stated that there has always been a push to get the project done. Mr. Lipscomb stated that there have been many things that have popped up to derail the process, and that in hindsight he would have done the initial deal very differently. Mr. Lipscomb stated that he believes the immediate beneficiary of this project has always been the Town of Winter Park, and that it addresses a lot of safety issues.

Mayor Lahrman stated that, in fairness, Mr. Bestall's presentation did not mention that when the initial agreements were made, there was not an opportunity to put in a quiet crossing and now we have an application in with the Public Utilities Commission to do so. Council Chuck Banks asked if the maintenance aspect of the project has been agreed to by Fraser. Mr. Lipscomb replied that Fraser has entered into a verbal agreement and they were expecting a signed agreement within days.

Councilor Nick Kutrumbos stated that the biggest concern is that it is going to be very difficult to tell residents that they will no longer have access to US Highway 40 through King's Crossing. Mr. Bestall stated that the Public Utilities Commission is all about safety, and if you put an underpass near an at-grade crossing, the Public Utilities Commission policy is for the at-grade to be closed.

Councilor Seemann stated that we could attempt to prove a case that we do not need to close the at-grade crossing. Mr. Bestall stated that closing the at-grade crossing is important as it relates to funding and long term safety. Mayor Lahrman stated that if we were to include language asking them not to remove the at-grade crossing, it would directly affect Cornertstone's funding.

Mr. Bestall stated that there has been tension over signals and access permits, and that they are now approved at King's Crossing Road and at Rendezvous Road/First Street. Mr. Bestall stated that if they are going to run a road back to Rendezvous, it only makes sense to take it to the closest signal. Mr. Lipscomb stated that if he lived in Leland Creek, it would be a shorter route to 40 than what is there presently. Councilor Kutrumbos asked if the access to US Highway 40 was planned to be direct access, or if it would have stop signs. Mr. Lipscomb responded that he could not remember where the stop signs would be in the Village, but it could be worked out so the main road through is non-stop.

Mayor Lahrman asked Mr. Bestall and Mr. Lipscomb to explain to Council why Grand Park would object to King's Crossing quiet zone application. Mr. Lipscomb stated that when they were notified, they contacted the town and discussed design concerns of blocking the public road coming off of King's Crossing north. Mr. Lipscomb stated that in the new design, the median will be extended beyond the right of way which does not allow for left turns out. Mr. Lipscomb stated that there will be a lot of traffic in that area due to construction, and that he is concerned with access being blocked as it would also be an inconvenience for residents. Mr. Lipscomb stated that he did not see the benefit of the quiet zone, and that it is unfortunate that there has not been more collaboration. Mayor Pro-Tem Atwater stated that she lives in the quiet zone on Vasquez Road and has noticed a remarkable change, and very minimal whistle-blowing. Mr. Lipscomb stated that he wants to work with the Town to make the whistles go away, and that he believed the best solution to be the Underpass. Mr. Lipscomb stated that he does not believe that there is a chance of the at-grade staying in place, and that they would receive no funding if the at-grade stays open.

Mr. Bestall stated that Manager Nelson had communicated that it is the Council's position that they would prefer to keep the at-grade crossing and that the Underpass not happen. Manager Nelson stated that that was not in his deposition. Mr. Bestall stated that he was just trying to square what the agreements say with what has been communicated.

Councilor Mike Periolat asked, if one hundred percent of the drawings are done and approval has been received, why this is the first he is hearing that. Mr. Bestall stated that he has been in consistent communication with Town Administration. Manager Nelson stated that Mr. Bestall sent him an email with proposed designs. Mr. Lipscomb stated that he had requested time in front of Council in the past, but was denied. Manager Nelson stated that the Town's legal counsel advised against that at that time.

Councilor Periolat stated that he was glad Mr. Bestall and Mr. Lipscomb were present, and that he was ready to move forward. Councilor Periolat asked what the vision was for the Fraser Valley Parkway. Mr. Bestall stated that it will be completed in chunks and that there is a subdivision currently being worked on, as well as a lot of pieces that will come together in the next couple years. Councilor Periolat stated that Cornerstone should consider highlighting Old Victory Road as a bypass loop. Mr. Lipscomb stated that it is at rough finish grade, and water sewer is in place under it. Mr. Lipscomb stated that it is going to get paved in increments, effectively to a county road standard. Councilor Periolat stated that the schedule for the construction seems very fast, and asked if there are other options for construction traffic, such as County Road 72. Mr. Lipscomb replied that that was not a viable option presently as you could not run a truck up it. Councilor Periolat asked if it would be an option in the future. Mr. Bestall stated that he believed this to be thinking too far in advance, and that he is interested in talking about our current position, and Underpass funding. Councilor Jim Myers stated that he did not want to debate past history, and that there was a judgment made that Winter Park is not financially obligated to fund the Underpass. Councilor Myers stated that he believes that Council is fine with the construction of the Underpass, but the Town cannot fund it.

Mayor Lahrman opened the discussion to public comment.

Mr. Therron Hofsetz stated that he was a member of the Leland Creek Homeowner's Association Board, and that the Underpass has been a topic of conversation, and that the majority of residents are in favor of the Underpass. Mr. Hofsetz stated that the Town entered into agreements in 2003, 2004, and 2005, and asked why the money for the project wasn't send into escrow. Mr. Hofsetz stated that he believed this to be poor financial management, and that it is disappointing as a resident. Councilor Periolat stated that the Council should possibly schedule a workshop to get accurate information to the public. Mr. Hofsetz asked when the closing of King's Crossing Road was published. Mayor Lahrman stated that the closure was related to the initial contract being accepted months ago, and that the decision was made due to safety issues but was not posted.

Mr. Nick Teverbaugh stated that he had a question for Mr. Lipscomb. Mr. Teverbaugh stated that when the first Public Utilities Commission was underway, a part of that hearing was that the same 2.5 million dollars a year was available to be used for this type of project. Mr. Teverbaugh stated that at that point, the waiting period on that 2.5 million dollars was several years long, up to seven. Mr. Teverbaugh asked, since Cornerstone is talking about construction in 2015, if that has changed. Mr. Lipscomb replied that the funding that was available then was committed to 2013. Mr. Lipscomb stated that part of the negotiation of the settlement agreement was doing a discount to arrive at a fixed amount. Mr. Lipscomb stated that the current agreement with Union Pacific Railroad does not have the same time restrictions, and that they have committed to fund it now. Mr. Lipscomb stated that Union Pacific Railroad can provide funds in advance and count them toward future funding obligations. Mr. Lipscomb stated that part of the funding will come from

Union Pacific Railroad, they will see what funding, if any, comes from Winter Park, and the rest will come from Cornerstone.

3. Consent Agenda

3.a. Approval of May 20, 2014 Regular Meeting Minutes

Councilor Seemann moved and Councilor Kutumbos seconded the motion approving the Consent Agenda. Mayor Atwater abstained due to her absence from the previous meeting. Motion carried: 6-0.

4. Action Items

4.a. Ordinance 484 - An Ordinance Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Budgeted and Appropriated for the Fiscal Year of 2014 for the Town of Winter Park

Manager Nelson stated that because of an administrative issue, the Second Reading on Ordinance 484 - An Ordinance Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Budgeted and Appropriated for the Fiscal Year of 2014 for the Town of Winter Park would need to be continued to the June 17th Council Meeting.

Councilor Seemann moved and Mayor Pro-Tem Atwater seconded the motion to continue the Second Reading of Ordinance 484 to the June 17th Council Meeting. Motion Carried: 7-0

4.b. Ordinance 485 – Board of Adjustment Amendment

Manager Nelson stated that because of an administrative issue, the Second Reading on Ordinance 485 – Board of Adjustment Amendment would need to be continued to the June 17th Council Meeting.

Councilor Seemann moved and Councilor Banks seconded the motion to continue Ordinance 485 to the June 17th Council Meeting. Motion Carried: 7-0

4.c. Special Event Permit- Winter Park Farmer’s Market

Donnie McBath, representative of the Winter Park Farmer’s Market, stated that he expected to have approximately 20 vendors at the beginning of the summer increasing to possibly 40 vendors by the end. Mr. McBath stated that there would be organic produce being sold, as well as beer from the Tommyknocker Brewery.

Councilor Seemann moved and Councilor Periolat seconded the motion to approve the Special Event Permit for Winter Park Farmer’s Market. Motion Carried: 7:0

4.d. Special Event Permit – Shining Stars Half Marathon

Megan Bryant, representative of the Shining Stars Foundation, stated that the half marathon will have about 125 participants and that permission to use certain Town roads was needed.

4.e. Special Event Permit – Shining Stars Family Adventure Camp

Megan Bryant stated that there would be about 230 participants in this camp for children with cancer and their family members.

Councilor Seemann moved and Councilor Kutrumbos seconded the motion to approve the Special Events Permits for Shining Stars Half Marathon and Family Adventure Camp. Motion Carried: 7-0

5. Town Manager's Report

Manager Nelson stated that the Council Retreat was successful in getting the Council caught up on lots of matters. Manager Nelson stated that he was expecting an update on the King's Crossing Road closure by the following morning, and that he was hoping to have it reopened as quickly as possible.

6. Mayor's Report

Nothing to Report.

7. Town Council Items for Discussion

Nothing to Discuss.

Councilor Seemann moved and Councilor Myers seconded the motion to go into Executive Session in accordance with C.R.S. Title 24, Section 6, Subsection 402-4(e).

8. Executive Session

8.a. Negotiations in Accordance with C.R.S. Title 24, Section 6, Subsection 402-4(e) for the Purpose of Determining Strategy or Instructions with Negotiators Regarding the Sitzmark Properties

Upon conclusion of the discussion, the motion was made by Councilor Seemann and seconded by Mayor Pro-Tem Atwater and unanimously carried to return to Regular Session. Those in attendance at that time were: Mayor Jimmy Lahrman, Mayor Pro Tem Barbara Atwater, Councilors Chris Seemann, Chuck Banks, Nick Kutrumbos, Jim Myers, and Mike Periolat, Town Manager Drew Nelson, Interim Town Clerk Taryn Martin, and Town Attorney Ryan Malarky.

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 8:30 p.m.

The next scheduled meeting of the Town Council will be Tuesday, June 17th, 2014 at 8:00 a.m.

Taryn M. Martin, Interim Town Clerk

