



City of Leavenworth

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City Council
Cheryl K. Farivar - *Mayor*
Elmer Larsen
Carolyn Wilson - *Mayor Pro-Tem*
Gretchen Wearne
Mia Bretz
Margaret Neighbors
Richard Brinkman
Sharon Waters
Joel Walinski - *City Administrator*

LEAVENWORTH CITY COUNCIL AGENDA

Leavenworth City Hall - Council Chambers

May 9, 2017 - 6:30 PM

Call to Order

Flag Salute

Roll Call

Consent Agenda

1. Approval of Agenda
2. Approval of April 25, 2017 Regular Meeting Minutes
3. April 2017 Payroll \$202,622.86
4. 2017 Claims \$637,481.78

Council Committees - 2nd Tuesday

Public Safety 3:00 Parks 4:00

Public Works 5:00

Public Safety Report: Sergeant Bruce Long, Liaison Officer

Councilmember and Committee Reports

Mayor/Administration Reports

Comments from the Public on Items Not on the Agenda

Group Funding Report: Leavenworth Firefighter Challenge

Public Hearings on Alley Vacation Request at 6:30 PM

1. Betz Property
2. Boyd Property

Resolutions, Ordinances, Orders and Other Business

1. Action: Ordinance 1546 – Alley Vacation Request – Betz Property
2. Action: Ordinance 1547 – Alley Vacation Request – Boyd Property
3. Action: Professional Services Agreement – HDR for Utility Rate Study
4. Action: Whitman/Commercial/Enchantment Bid Award
5. Action: Local Improvement District 24 Assessment Process / Bond Purchase

Information Items for Future Consideration

1. Candidate Filing Week May 15th – 19th (Positions 4, 5, 6 and 7 up for election)
2. Joint Mid-Year Meeting with the Planning Commission on June 27, 2017

Adjournment

(Next Ordinance is 1548 - Next Resolution is 12-2017)

The City of Leavenworth is committed to providing reasonable accommodations in accordance with the Americans with Disabilities Act. Please contact City Hall at (509) 548-5275 at least 72 hours prior to a scheduled meeting to request an accommodation.

SUPPLEMENTAL COUNCIL AGENDA

1. Ordinance 1546 – Alley Vacation Request – Betz Property

The City Council is being asked to adopt Ordinance No. 1546 for the vacation of a City owned alley as requested by Mr. James Betz. On April 11, 2017, the City Council approved Resolution No. 08-2017 which pursuant to RCW 35.79.010, the City, by this resolution, fixed a time for public comment and public hearing. This allowed for a public hearing on the vacation for May 9, 2017.

"Right of Way Vacation Application / Petition" was received on June 7, 2016. This petition included signatures by more than 2/3 of the property owners (Mr. James Betz) abutting the alley. If the City determines to grant said petition or any part thereof, the City shall be authorized and have authority, by ordinance to vacate such alley, or any part thereof, and the Council is being asked to consider this property for vacation.

Mr. James Betz initiated the request application asking the Council for consideration of abandoning the alley adjacent to Mr. James Betz's property located at 108 River Street in Leavenworth.

The Public Works Director and Development Services Manager has conducted their investigation. A previous request for vacation was denied by the previous Community Development Director due to the use of the alley as snow storage. Subsequently, the alley has not been used for storage and/or any other public activity. In addition, the City finds that the Ralston's Addition to Leavenworth and its alleys that have not been used for its purpose of an alley may revert to the platted lands under the operations of law without compensation to the City. The City has concluded that no known city utilities, connection to public streets, paths, or other municipal infrastructure is located within the defined property. In addition, the property does not connect to a shoreline of statewide significance. Finally, the City's investigation finds that this real property has no current or future city need, as well as if disposed of, this property would be put to a higher or better use for the community at large.

The following item is included under **TAB 1:**

- Ordinance No. 1546
 - **MOTION:** *The Leavenworth City Council moves to adopt ordinance 1546 Betz Alley Vacation.*

2. Ordinance 1547 – Alley Vacation Request – Boyd Property

The City Council is being asked to adopt Ordinance No. 1547 for the vacation of a City owned alley as requested by Mr. Lyman Boyd. On April 11, 2017, the City Council approved Resolution No. 09-2017 which pursuant to RCW 35.79.010, the City, by this resolution, fixed a time for public comment and hearing. This allowed for a public hearing on the vacation for May 9, 2017.

A "Right of Way Vacation Application / Petition" was received on September 10, 2016. This petition included signatures by more than 2/3 of the property owners (Mr. Lyman Boyd) abutting the alley. If the City determines to grant said petition or any part thereof, the City shall be authorized and have authority, by ordinance to vacate such alley, or any part thereof, and the Council is being asked to consider the alley vacation in an exchange for equal public easement.

Mr. Lyman Boyd initiated the request asking the Council for consideration of abandoning the alley adjacent to Mr. Boyd's property located at the corner of Mill Street and Hwy 2 in Leavenworth.

The Public Works Director and Development Services Manager has conducted their investigation. Mr. Boyd is requesting that the alley be relocated or "vacated and dedicated" in lieu of processing an

appraisal and compensation to the City. This “land swap” appears equitable, and allows for future utility connections. The existing alley is steep, and would be difficult to develop as an alley for access.

Existing alley to be vacated – 3,464 sqft

New easement to be established – 3,951 sqft

Area of overlap (same footprint) to be converted from alley to easement – 108 sqft

Area difference – 487 sqft (positive for public use)

The City has concluded that no known city utilities or other municipal infrastructure is located within the defined property; and the continued connection to public streets and/or paths by providing a new alley is acceptable for public use. The property does not connect to a shoreline of statewide significance. Finally, the City's investigation finds that this current alley would be difficult and/or unlikely developed for future city needs, as well as if disposed of, this property would be put to a higher or better use for the community at large. Mr. Boyd is aware that he is responsible for appraisal costs, legal fees, survey, and the purchase price of the property which would be due if the surplus is approved by the Council if the land swap is not accepted.

Ordinance No. 1547 includes an easement in respect to the vacated land for continued access to the existing dedicated alley.

The following item is included under **TAB 2:**

- Ordinance No. 1547
 - **MOTION:** *The Leavenworth City Council moves to adopt ordinance 1547 Boyd Alley Vacation.*

3. Professional Services Agreement – HDR for Utility Rate Study

The City Council is being asked to review and consider approval of a Professional Service Agreement (PSA) with HDR Engineering for the completion of a Utility Rate Study. The funding for the utility rate study is included within the 2017 City Budget and the source of funding is divided among the four utilities included in the study: water, sewer, stormwater and garbage. The PSA is primarily the City's template; HDR suggested several changes regarding insurance language and the termination clause. The PSA with these suggested changes has been reviewed and approved as to form by the City Attorney. The estimated cost for the completion of the study is \$59,950, the PSA is for a not to exceed cost of \$60,000. The estimated schedule for the study is May through October of 2017.

The Request for Proposal was advertised from February 15 through March 24, 2017. In addition, six companies were notified of the request for qualifications. The City received two responses to the Request for Proposal, HDR Engineering and FCS Group, both excellent firms with a long history of completing utility rate studies. Staff reviewed the proposals and discussed the proposals with the PW Committee in April. Phone interviews were conducted on April 19, 2017. HDR Engineering was selected based on their past working relationship with the City and knowledge of the City's current utilities. In addition HDR, because of their background knowledge working with the City, was able to offer more competitive pricing for the completion of the study.

Utility Rate Study History:

One of the most difficult decisions that City Councilmembers must deal with is establishing equitable utility rates to ensure that sufficient revenues are being generated. State law mandates that any

municipal utility must be self-sufficient. Revenues generated from utility sales, services, and other sources must meet all expenses, both operating and nonoperating. The decision-makers know their community and their utility system. A utility's rate structure can be used to solve, or cause, many financial and political problems. Therefore, attention must be given to this all-important area. If the major criteria for developing a good rate structure – generating sufficient revenue, distributing the costs fairly across all user classes, and developing a structure easily understood by the customer - are included in setting the rate structure, the Community will have solved many of its utility problems. A rate study is a financial review of a utility service that projects future revenues and expenses.

The City's last utility rate study was completed in December, 2011 that included recommendations for the Garbage, Water, Sewer, and newly formed Stormwater rate structures for the years 2012 through 2016. The previous rate study did not go into detail regarding user groups and cost of service. This rate study will include a more detailed rate study using past customer consumption data to allocate costs by customer class. The outcome of the rate study is to provide information to the rate payers for an understanding of the rates and to provide the City Council with the information that costs for services are fairly distributed across all user classes.

The following items are included under **TAB 3**:

- PSA HDR Engineering Utility Rate Study
- Exhibit A: Scope of Services
- Proposed Schedule
- **MOTION:** *The Leavenworth City Council moves to approve and authorizes the Mayor to sign the professional service agreement with HDR Engineering for the completion of a Utility Rate Study at a not to exceed fee amount of \$60,000.*

4. Whitman/Commercial/Enchantment Bid Award

The City Council is being asked to review the bid results for the Whitman/Commercial Asphalt Improvement Project. The City Council authorized the Bid for this project on March 28, 2017. On April 4, 2017 (LEAVENWORTH TIB Project Number 2-E-850(002)-1 FY 2017 Overlay Project) was approved for bid by the Transportation Improvement Board (TIB). The bid was advertised in the Daily Journal of Commerce on April 6, 2017 and April 13, 2017. Plans were made available at the Builder Exchange. In addition, the City provided notice to 26 firms that the bid documents had been posted for review. At the close of the bid period, the City had received one bid for this project from Central Washington Asphalt, Inc in the amount of \$488,041.90. The engineer's estimate for this project is \$342,400.

In a discussion with the contractor, he said the bid amount and lack of bidders reflect the business of the season because of how harsh/cold the past winter was and the affect on local roads; everyone is extremely busy. In a review of the bid documents by Project Engineer Steven Marsh, P.E TD&H he found major discrepancies in pricing for traffic control and surveying. The City received notice back from TIB; their preference would be to authorize a rebid in January or February 2018; however, they would also support the City rebidding at this time. City staff has heard from one or two local contractors that the winter repair work is being completed and there may be better interest in this project at this time.

The City was awarded a TIB Grant in 2015 in the amount of \$477,000 with a 5% match by the City or \$25,300. The grant amount covers design engineering, construction, construction engineering and inspections. The estimated construction funding by TIB was \$385,200.

There are four alternatives that the Council may consider at this time:

- a) Accept the bid by Central Washington Asphalt. The City funds would be necessary to cover all costs above the \$385,200. These would include the additional costs for construction, and all costs for inspections and construction engineering. The estimate on additional cost for construction, construction engineering and inspections is \$130,000.
- b) Reject the bid by Central Washington Asphalt and authorize a new bid of the project at this time. The late spring early summer has not traditionally been a good time for receiving good bid results. Typically, construction contractors have full to nearly full construction calendars at this time and a premium is paid to fit into the construction cycle. A rebid of a project costs approximately \$1200 - \$1500 for advertisement and amendment of the bid documents. In addition, staff resources need to be allocated to manage the bid process. In the event a good bid is received, the project could be finished late summer early fall; the expected construction time line is approximately 45 days. If the bids received are again out of the acceptable cost level, the Council could reject the bids and wait for the early 2018 bid cycle.
- c) Reject the bid by Central Washington Asphalt at this time. Staff would request a new authorization to bid in January/February of 2018. Construction would occur in the summer of 2018. The January/February time frame for a summer construction is typically the best time to receive the highest number of qualified, competitive bids. One issue with this is future inflationary cost. On construction projects of this type, oil/fuel pricing is the main inflationary cost driver.

The staff recommendation is option c. History has shown that mid season bid periods are expensive, while the price might be reduced from the \$488,000 bid number, there will be a premium price on the bid during this time frame. Staff would recommend use of funds to address several larger spot overlay projects that Public Works has identified caused by the harsh winter weather.

The following item is included under **TAB 4:**

- Steve Marsh P.E., TD&H Engineering Email on bid review, May 1, 2017
 - **MOTION:** *The Leavenworth City Council hereby _____ the bid received by Central Washington Asphalt for the Commercial Street/Whitman Street Asphalt project and _____.*

5. Local Improvement District 24 Assessment Process / Bond Purchase

This time is being allocated to discuss the procedures for moving forward with the final implementation and assessment of the Local Improvement District (LID) 24 for the Meadowlark Water/Sewer Line Extension and Sewer Lift Station project that is nearly complete.

History:

On July 25, 2013 the City received an official Petition from 100% of the property owners of the Meadowlark Development (Upper Valley MEND, John Agnew/Patricia Hebert, Titus LLC/Rudy Prey) to request the construction of water and sewer transmission lines and sewer lift station and the establishment of a Local Improvement District that would be used to offset the cost of this construction project. The transmission lines would be included into the City's Chumstick Trail Project and the lift station would be located near the intersection of North Road and Chumstick Hwy. By including this project within the trail project, the cost of Right-of-way (ROW) purchasing and engineering would reduce the cost of the utility project. The purpose of the utility project was to provide utility services to the three property owners which would allow the future development of their undeveloped property. The petition was certified on August 13, 2013 by the City Clerk.

In December 2013 the City received the Special Benefit Analysis summary appraisal conducted by Pacific Appraisal, which is one of many steps involved in forming an LID. The Special benefit analysis calculates the benefit to undeveloped land when improvements like utilities are provided. In this case, the initial value of the 33 acres of property was appraised at \$3,890,000 without access to water and sewer utilities, the appraised value with water and sewer was \$5,060,000, a benefit of \$1,170,000 to the property owners. (NOTE: 2013 numbers) Due to some minor changes in the parcels being identified by the developers and the addition of parcels within the special benefit analysis, the City passed Resolutions 8-2014 on March 25, 2014 and 22-2014 on November 12, 2014 recognizing the additional new parcel to the project area which included parcel 241 701550 142 owned by Bobby and William Burnett, a 1/3 acre addition to the area.

The City Council held a Public Hearing on the formation of LID 24 on December 9, 2014 Testimony was given by two of the four property owners with no objections being stated. On December 9, 2014 the City Council adopted Ordinance 1470 which established LID 24 and ordered the City to complete the necessary construction and to authorize the next steps to set forth the assessments for each parcel payable by the mode of bonds to be issued and sold as LID Bonds for a total estimated project cost not to exceed \$960,000.

As of today, the City has spent approximately \$802,000 and anticipates an additional \$88,000 for a total estimated project of about \$890,000. Within this figure are estimates for final construction, engineering, attorney and bond fees yet to be finalized. City staff is currently discussing with bond counsel the next steps necessary to complete and finalize the LID assessments against the property owners. The City began the construction of the project in the fall of 2016 and the lift station component is nearly completed at this time.

Funding for the project, engineering, ROW purchase, and construction was provided through the utility funds, street fund and general fund. Once the bonding is completed and the LID is finalized those funds will be reimbursed to the funds expended for the project to date.

One of the questions that remains for the calculations of the final LID assessments to the benefit properties is a commitment that the City made to offset \$193,000 of the assessments for the benefit of the 30 affordable homes that were to be constructed in the Meadowlark Development. The "Meadowlark Property" which would have included the affordable home development is currently for sale at market rate pricing by the property owners, Upper Valley MEND. The City's commitment for the use of those funds was premised on the commitment for the buildout of the 30 affordable home component. At this time there is not a substantive plan in place to complete the buildout of the "affordable homes". There are several options the City could proceed with in moving forward:

- 1) Continue with the commitment of the \$193,000 to offset a portion of the MEND property assessment. A new justification would need to be identified for singling out and applying these funds only to the MEND property. This would need to cover the use of City funds to benefit a private entity and not the other properties being assessed in LID #24.
- 2) The City could reconsider the use of the \$193,000 to reduce the total assessment to all properties. The \$193,000 would be subtracted from the total estimated assessment of \$890,000 for a total estimated cost of \$697,000, which would be shared proportionally between the four property owners. The justification for this use of City funds would be for some public benefit with the extension of public utilities; although, the main benefactors for the utility extension are private land owners. In this case, there is not a connecting loop for water transmission lines, which would benefit more water users or the system or a new sewer arterial line replacing an old arterial line.
- 3) The City could reconsider the use of the \$193,000 and create a fund that would go towards a project that would provide funding for a "Housing Affordability Pilot Project". This could be at a new location, a City directed pilot housing project, or use for a future housing project by

MEND. Council would need to determine the definitions, terms and focus of what this project and the funding parameters would be.

- 4) The City could reconsider the use of the \$193,000 and use it towards funding the construction of the Titus/Chumstick Collector Roadway. This construction project would benefit a larger percentage of the community than those being serviced by the utilities. This roadway would provide access of Titus to relieve traffic pressure and provide an alternative emergency exit of those neighborhoods. The funds could be held until such time as additional partners and full funding is identified.
- 5) The City could reconsider the use of the \$193,000 and provide full funding back to the funds that have provided the funding for the project. In all of the scenarios above (1-4), any City fund that covered the construction costs would lose a portion of the expended funds. Loss of funds to utility funds does create pressure on increasing rates.

At this point in time, one of the next steps will be to develop a new assessment role for the benefitting properties. To develop that assessment role staff will need to know how to address the \$193,000. The discussion this evening is forwarding one of the suggestions above or another regarding the allocation of the \$193,000. A motion would be preferred for the record.

The following items are included under **TAB 5**:

- Resolution No. 21 - 2011: Municipal Bonding for Meadowlark Development
 - Resolution No. 10 – 2012: Repeal of Res. 21 – 2011 Amendment Agreement
 - Resolution No. 1 – 2013: Repeal of Res. 10 - 2012, Amended Agreement
 - Petition Meadowlark Development July 25, 2013
 - Certification of Sufficiency, August 13, 2013
 - Resolution No. 08 – 2014: Intent to form LID #24, Public Notification
 - Resolution No. 22 – 2014: Intent to form LID #24, Public Notification
 - December 9, 2014 City Council Minutes (Public Hearing)
 - Ordinance No. 1470: Ordering of the Construction and Establishing LID #24
- **MOTION:** *The Leavenworth City Council recommends Option ____ from the options listed above to calculate the final assessment amounts for LID #24.*