

**LYNCHBURG CITY COUNCIL
PHYSICAL DEVELOPMENT COMMITTEE
MEETING HIGHLIGHTS
Tuesday, August 12, 2014
9:00 a.m.**

Members: Council Member Turner Perrow, Chair, Council Member Joan Foster, Vice Mayor Ceasor Johnson, Mayor Michael Gillette, ex-officio

Staff Present: Kimball Payne, Bonnie Svrcek, Gaynelle Hart, Jim Talian, Greg Poff, Tim Mitchell, Kent White, Marjette Upshur, Lee Newland, Starlette Early

Others Present: Justin Faulconer (News & Advance), Ben Copeland (Lynchburg City Schools), Kenneth Moorefield (PEG Bandwidth), Mr. & Mrs. Gil Quick (3004 Winchester)

Contract Awards:

There were no new contracts awarded this month.

Update on Priority Projects:

Mr. Newland provided an update on projects since the last PDC meeting:

- Wards Road Pedestrian Crossing 2B- Approximately 2 months behind schedule; pushing to have completed before Thanksgiving/Christmas shopping season
- Midtown Connector- Langhorne 60% complete and Kemper underway
- Kemper Street Bridge / Interchange-- Reviewing 100% plans and will rebid in late August
- Miller Center Renovations—Approximately 3 months behind schedule
- Odd Fellows Road- P3—VDOT planning to issue RFP in December

There was discussion on the efforts to address schedule delays with Wards Road and Miller Center. Staff is working with contractors to speed up process and achieve work efficiencies.

General Business:

1. ***Appalachian Power Company request for an easement on City-owned property (New Heritage High School) at 3020 Wards Ferry Road***

Mr. Copeland indicated as part of the new Heritage High School project, AEP and Verizon service lines had to be moved where they transected at this site. The poles were moved out of the City's right of way and City schools have worked jointly with both companies relative to details within the franchise agreement. Both companies have decided to pursue easements for where their equipment is currently located.

Mr. Copeland had no concerns with the easement request, and noted it did not affect school operations. There were additional comments by the PDC regarding the favorable progression of this project, and a day of transformer work that impaired electrical service during a scheduled meeting at Heritage High School by Council Member Foster.

Consensus from the committee was to move the request forward to full Council with their recommendation for approval.

2. Verizon request for an easement on City-owned property (New Heritage High School) at 3020 Wards Ferry Road.

See item number 1 above. Mr. Copeland indicated Verizon lines are tacked on to the same poles as AEP lines and Verizon is requesting easement for where their equipment is located.

Consensus from the committee was to move the request forward to full Council with their recommendation for approval.

3. PEG Bandwidth License Agreement to install fiber optic cable from 5067 Boonsboro Road to 182 Irvington Springs Road – PEG Bandwidth has submitted a request for installation of approximately 4,300 feet of underground fiber optic cable in city right-of-way from 5067 Boonsboro Road to 182 Irvington Springs Road. They will be installing new fiber for Network Services to AT&T and Sprint. This will increase network traffic among the two carriers within the city.

Mr. Moorefield summarized the request, indicating the company is in the process of building a fiber optic ring around the entire City of Lynchburg. Within the state of Virginia, PEG Bandwidth is installing fiber optic cable for AT& T and Sprint for the 4G network. There was discussion regarding increase in network traffic and availability of this network to other carriers beyond the initial AT&T and Sprint providers. Mr. Moorefield indicated their network would be available to other carriers, including Verizon and the City of Lynchburg if needed.

Consensus from the committee was to move the request forward to full Council with their recommendation for approval.

4. PEG Bandwidth Blanket License Agreement to install fiber optic cable in city right-of-way in various locations of the City – PEG Bandwidth is requesting the City to consider granting them a blanket license agreement to install underground and overhead fiber optic cable in various other locations throughout the city limits. They are requesting a blanket license agreement because of their time constraints. Walter Erwin has advised that a blanket license agreement is possible. The blanket agreement would allow Peg Bandwidth to move forward with installing cable in locations in the city and not be required to bring each location before PDC and Council. They would still be required to have their plan reviewed and approved by the Technical Review Committee (TRC).

Mr. Newland provided background regarding the process of granting license agreements—staff time to review in Technical Review Committee (TRC), bringing before the PDC, and then approval by full Council. The blanket license agreement would create a more timely method, where each location for an agreement would be reviewed and approved by TRC, but would not be required to go before PDC and Council. The City Attorney has advised a blanket license agreement is plausible but would need the approval of City Council.

There was discussion regarding how this differs from a franchise agreement. Mr. Newland reported it is his understanding the SCC is not issuing franchise agreements for telecommunication companies, and a license agreement is a temporary measure to allow telecommunications to locate in the City's right-of-way until a franchise agreement can be allowed again.

There was additional discussion of whether a blanket license agreement would create a monopoly for this company. Mr. Moorefield indicated this would not shut anyone out and companies could choose to lease their fiber if they did not desire to build their own network.

Staff was asked for feedback and there was discussion regarding anticipated location of fiber cables. Mr. Moorefield indicated their preference was aerial where possible unless replacement of a pole was financially prohibitive.

There was additional clarification for how the blanket license agreement would work regarding the process of review, PEG Bandwidth's commitment to plan outlined on their proposed map, and timetable to complete the build-out according to the map. Mr. Moorefield indicated their anticipated timeframe for completion is by the end of the calendar year.

A sunset provision for the agreement was discussed in order to give PDC an opportunity to review again in the event the project was not completed in the expected timeframe, however Mr. Payne indicated a sunset provision would not be possible because the license agreement would need to remain in place for PEG Bandwidth to operate within after the installation of the network was completed. Mr. Payne stated he would ask Mr. Erwin to clarify to City Council why this was the proposed course of action.

Consensus from the committee was to move the request forward to full Council with their recommendation for approval.

5. Citizen Request- Hillview Street/3004 Winchester –*Mr. Quick is requesting that Hillview Street be extended 46 feet to beginning of his property then an additional 60 feet for a turnaround area with gravel held in place by railroad ties. The zoning ordinance states that in order to obtain a building permit, an improved street must extend all the way across the frontage of the property.*

Mr. Newland presented background information, noting the gravel road proposed by Mr. Quick was different from the usual pavement standard required by the City. Mr. Newland had previously advised Mr. Quick he could not permit a gravel road to be constructed in lieu of the standard and now Mr. Quick is requesting to discuss this decision with the PDC.

Mr. Quick summarized his acquisition of the property in 1997, noting issues surrounding access to the property from Winchester, and provided the PDC with images of Winchester to highlight topography constraints. He discussed the current size and condition of Hillview Street, modular home price increases from time of property purchase, and questioned need for a hammerhead turnaround for EMS. He made further remarks on the time it has taken to work through this issue with the City, asking for some timely resolution so he can gain access and use of his property to build a home.

Council Member Perrow indicated the request hinged on a policy issue as it required allowing a deviation from the current building/zoning regulations of the City, opening the door to similar requests by others. There was discussion regarding location of other homes in proximity of this road as it relates to safety and a more detailed description of the current City standards for new construction of streets. In 2011, Mr. Newland had, in consult with the City Public Works Director at that time, agreed to reduce the standard for the road to 20 ft. wide, no curb and gutter requirement, and a hammerhead turnaround for EMS access. Mr. Newland had conveyed that proposal to Mr. Quick, who indicated there was miscommunication of those reduced requirements that has kept him from developing his property.

Council Member Foster clarified the modifications as currently proposed and inquired whether those were acceptable to Mr. Quick. Mr. Quick indicated he would like further modifications that were more

realistic for someone within his income bracket. Vice Mayor Johnson indicated his concerns for future development within the area and potential consequences for public safety if standards are reduced to a level that does not meet the requirements for future growth and greater good for the entire community. Mr. Quick reported he had been granted permission sometime in 1998 by former City staff, whom he could not remember, to build the road as he proposed; however, due to family and financial circumstances was unable to proceed with the project at that time.

There was discussion regarding water/sewer connection to the property and possible need to extend public water line to service the property. (Staff was not prepared to comment on extension at this time.) There were additional remarks regarding paper streets “grand-fathered” within the City of Lynchburg, noting they would be required to meet appropriate standards as developed.

Council Member Perrow asked to develop and clarify a succinct list of differences between the City standard road construction requirement and the compromise being proposed to Mr. Quick. He confirmed with Mr. Newland that sidewalks were not being required in the proposal. There was further conversation regarding the requirement for a hammerhead turnaround, asphalt surface, and extension of road beyond property driveway (zoning requirement is 25 feet beyond driveway). Mr. Quick indicated due to the railroad track and embedded rock, it was impossible to bring equipment from either direction to do the type of work necessary for construction.

Mayor Gillette inquired about the access problem from Winchester and Mr. Quick indicated embedded rock and grade made it impossible for heavy equipment to navigate. Mayor Gillette further commented on the development of paper streets and indicated the extension of any road by anyone must adhere to code guidelines. He clarified the property was not land-locked (has frontage on Winchester) but there appeared to be a financial burden to use the current access points.

Council Member Perrow explained the PDC had several issues they wanted staff to research and report back to the committee for consideration before making a recommendation. The definite items in the proposal include a 20 foot wide paved road, no curb and gutter, no sidewalks, and a residential cross-section. The items requiring further determination are how far the extension needs to extend, the dimensions of the required hammerhead, examples of similar road development, required water and sewer line extensions, and safety needs. Council Member Perrow would like this information to be presented in a comprehensive packet to Mr. Quick and the PDC, and the item to come back before PDC at next month’s meeting, allowing each committee member sufficient time to consider all the complex issues involved and personally view the area in consideration if desired.

Questions from Mr. Payne included the option to vacate the road, records available to substantiate the development requirements for the road Mr. Quick received from City staff in 1998, and the potential location of the driveway on the property for extension. The PDC responded in agreement to Mr. Quick’s clarification to allow only two layers (layer of gravel and layer of asphalt) for building the road.

6. *City Reimbursement to Developers Procedures* – Discussion of changes to delete from City Code and Policies reimbursements to Developers for public infrastructure installed with developments.

Mr. Newland explained this item had previously come before PDC in April and the committee made a request for staff to review related reimbursements and make recommendations on policy and procedure revisions. He noted there was marked-up language for PDC’s consideration and affirmed the changes were agreeable to both Water Resources and the Engineering Department.

Council Member Perrow asked to individually review the bullet points contained in the agenda summary. There was discussion on the first reimbursement item-- 50% of cost for Curb and Gutter installed on City residential streets. Examples were cited of developments and whether they received reimbursement, with Mr. Payne noting any reimbursements made to commercial developers was discretionary assistance through Economic Development incentives and not mandatory code requirements. He indicated his concern was the policy issue of whether the City should be obligated in its code to provide reimbursements, rather than evaluate a given development and determine the return on the investment. He explained the City is required to reserve funding in its CIP for these reimbursements, and developers are not under a timetable to complete their project in order to receive the reimbursement. The funding can be tied up indefinitely; it makes predictability of the CIP difficult, and can have an impact on the City's cash flow when a developer does an unexpected amount of work.

Council Member Foster suggested this item merits a bigger discussion, possibly at a retreat, to consider all options and variables such as developer incentives, etc. There was a question regarding the retreat schedule and Mayor Gillette felt this item would be possible to include.

There was discussion regarding the concept of walkable communities, and potential grants to fund the total cost of sidewalks (Safe Routes to School, VDOT enhancement grants, CDBG funding in qualified neighborhoods, etc.) There was further discussion on extension of water and sewer, availability and connection fee charges to developers and the current process for reimbursement.

Opportunities for incentivizing (or not!) development in the City through Economic Development were thought to be an important way for the City to have more influence on how areas are developed. The philosophical issue is related to whether the City should be obligated through code to make reimbursements without a time limit. The PDC wanted the retreat discussion to include what tools the City has at its disposal to incentivize development. The retreat schedule would be developed at City Council's meeting that evening.

Roll Call:

There were no items.

Next meeting: September 9, 2014