

Service Committee Minutes

Honorable Council
City of Newark, Ohio
March 519, 2024

The Service Committee met in Council Chambers on March 18, 2024, following the Finance Committee with these members in attendance:

Jeff Rath - Chair
Jonathan Lang sitting in for Dustin Neely – Vice Chair
Bill Cost Jr.
Beth Bline
Bradley Chute

We wish to report:

- Resolution No. 24-27** A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE FOR THE CITY OF NEWARK, OHIO, TO ENTER INTO A COOPERATIVE AGREEMENT WITH JOSH GREER, ALAINA GREER, CAILEIGH HUGHES , AND SPENCER BARKER, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A DRAINAGE SYSTEM
David Rhodes, Service Director – On the back of the 729 Country Club property, water collects there, it stands there for several days after that, it's a low spot in a series of homes in that area. There is a drain pipe that comes out to that area that was put there, pick a number, 15 years ago, with additional rains, water does go out that drainpipe and off the back of Greer's property. What we're proposing to do is to hook up an attachment to that drain pipe, bury it and take it out to the street, which will eliminate the flooding in the back of Greer's property. I'm here tonight because we're going to do something a little different, along with the agreement, we're going to ask the property owners to sign an agreement and that the City is not going to be responsible for the on-going maintenance. We've done a few of these where I have to go out each year and clean out a basin or do this or do that, but moving forward we're going to get release forms.
Mr. Rath – A contract, if you will.
Director Rhodes – We're going to get a contract and put it in the deed so it is transferrable to the new owners, if the property changes title.
Mr. Chute – Director Rhodes, I just have a question. How do you determine if the City is going to exercise this sort of good will that you're proposing.
Director Rhodes – Great question. The Storm Water Committee, everybody gets together and they go through all of the requests and put them in order of priority and they look at them, 4 or 5 different people go out and look at them. They figure a simple fix might be a dry well somewhere, might be a curb, might be something along those

lines and then they come up with a solution or they say hey, wait a minute, this is not a City issue and we do both.

Mr. Chute – So there's a process to apply.

Director Rhodes – There's a complete process. It goes through Lindsey Brighton, She heads the storm water committee, they all get together, they talk about them and then push them up.

Mr. Rath – How many times have you gone through the process in the last year?

Director Rhodes – In the last year, there's 8 times we've done this, the prior year there was 3 bigger projects that we did the effected different property owners, so it's on-going. The storm water utility when it was put in and I'm going to get the year wrong. Let's put that out there, could've been 04 or 05 or 06, but it was done under the Bain Administration to clean the storm water out of City water in the area. As well as sewer separations, you've all seen the effects of that.

Mr. Chute – My follow up question is how much do you budget?

Director Rhodes – Great question. What we do is leave an unappropriated balance in the storm water fund, that balance currently is \$1,231,000. We try to leave a half million plus in the unappropriated balance in case something happens, this year our big expense is we have to buy a street sweeper, which is about \$434,000. These are two smaller projects, we will be moving other projects forward and as we have storm water problems that effect properties, we're asking the property owner to sign off on the perpetual care, which means we'll come I front of you and say, gosh, here's the problem, this is what we want to do. We want to be able to exercise and easement agreement, we want to be able to exercise that agreement where the City is not responsible for perpetual care.

Mr. Rath – I'll ask the burning question that everybody wants to know the answer to. What does a street sweeper have to do with storm water?

Director Rhodes – It cleans off the streets, cleans off the berms, keeps the grates clean of debris. It's part of our storm water permit, it's a process we have to do.

Mr. Rath – If you don't sweep the streets all that stuff washed down into the storm water and clogs them up.

Director Rhodes – Clogs up the basins, clogs up the gutters.

Mr. Rath – That's what I wanted, thank you.

Ms. Bline – Is there an approximate cost?

Director Rhodes – A little over \$5,000.

Mr. Cost – is the City responsible for causing this in some way from your point of view?

Director Rhodes – I think that's determined through the committee. They get together and there is some reasonable concern that something the City did when a subdivision was built. You've got to remember a lot of these subdivision's were put in prior to the storm water utility, so somebody's concerns where it's coming down a hill in an area to backyards comes to a point, those are now things that are now considered when there

is a new build put in, whereas in the past there might not have been a consideration for it. As a matter of fact when the projects come through Planning Commission it's all about storm water retention and how you're going to get rid of your storm water. It will avert things like this in the future though.

Mr. Rath – Saw that first hand this Spring.

Mr. Lang – I do have a question, I was just thinking about it. In the past I don't recall seeing individual property owner's names.

Director Rhodes – This is a first, Jon, I think it all has to do with the easements that we need. There's grass property on the easements because it's on the property owners property and it's the maintenance agreements that we are asking people to sign that will be put into their deeds. So, I'll go back to the one on Stonewall that I have to go back to twice a year through the Street Department to clean out, we're trying to get out of the perpetual maintenance end of this which costs the City money.

Mr. Lang – So, I'm just trying to understand, there seems to be an indication we've done this in the past in another format.

Director Rhodes – I can take you to them if you'd like to go, I can take you to the spots.

Mr. Lang – I'm just trying to understand really the main difference between what we've done in the past and what we're doing here is the agreement with the property owners to have them assume the maintenance.

Director Rhodes – Yes, and for those to be put in the deed wo if the property owner sells it goes to the next property owner. So, ten years from now they don't come back on us and say you need to do this.

Mr. Rath – Was this something that was initiated by the Law Director?

Director Rhodes – I can't tell you actually, how it got initiated, because it comes out of the Committee, the Committee runs stuff by the Law Director,

Mr. Rath – I'm speaking specifically of this format.

Director Rhodes – I can't speak to that. It comes out of the Committee, it gets ran by the Law Director's Office, recommendations are made and these recommendations are what was made and we're following them.

Mr. Rath – I know the Law Director is here, would you like to address this issue?

Law Director Moore – So what do you want to know, that's the way we recommended the legislation be written.

Mr. Rath – We have done this before, we've never had it legislated and come through Council before.

Law Director Moore – Correct.

Mr. Rath – so, I was wondering if you could give us the reasoning for the purpose of the legislation.

Law Director Moore – So, what we were looking at doing, as Director Rhodes stated, is making sure that the City after this project is completed has no further liability in the matter. So, what we had property owners do, is they actually had to have an agreement

between each other about how this is going to be maintained, because the last thing we wanted was someone saying that's not my fault, you do this. There's an agreement between property owners about how future maintenance will be done and then there's an agreement between us and the property owners that we are not going to be liable for any further issues on that property.

Mr. Cost – I'm looking here at two quotes from Layton's that are \$36,000.

Mr. Rath – Bill, you're on the wrong piece of legislation, it's the next piece.

Mr. Rath – We're talking about a \$5,000 bid that's from Wilson's. I say \$5,000, it's \$5,000 and some change.

Mr. Lang – Given the City's participation is there any bidding requirements?

Director Rhodes – Not under \$35,000.

Mr. Rath – So we're required to get a bid at \$35,000.

Law Director Moore – I think it's 30.

Mr. Lang – So, if we're going above \$30,000, we wouldn't be able to just use a quote.

Director Rhodes – The next step after \$30,000 is to go to Board of Control, then it goes up to \$75,000, if the Board of Control accepts it then I can move forward, if the Board of Control declines it, then it goes out for bid.

Law Director Moore - \$30,000 is the initial then we go to more than that but less than 75 for public improvements, costs, materials.

Mr. Rath – So anything over \$75,000 you don't have the option you must get a bid.

Director Rhodes – I must get a bid or come to Council and ask for you to waive the bidding. Then you guys determine whether it is sufficient to waive the bidding or not. So, ultimately we bid it out over \$75,000 or we ask you to give us the authority to waive the bidding and there are times when that makes sense. Actually those levels were just raised at the State and I think we need to do a Charter Review come in line, so our next Charter Review we'll do that.

Mr. Marmie – I still, I'd like further clarification of the purpose of the Resolution, I'm looking at the whereas, so why is there a requirement to do a Resolution, what's the reasoning for a need for a Resolution?

Law Director Moore – Because we're entering into contract with property owners. In order for us to even do this, and this is my understanding, is that they entered into an agreement amongst themselves to say once this is fixed this is how this is going to be handled. We are part of entering into that contract with them to say that we are going to contribute this much to this fix, after that is done, the City is no longer liable and they have to agree to that before we'll do it. So we're actually entering into contract with them.

Mr. Rath – And that is in the legislation.

Law Director Moore – Yes, I believe that contract is in there.

Rochelle Volen-Smith, 237 Violet Ct. – I was wondering why we are considering doing this as a non-bid contract.

Mr. Rath – We just went over that. Anything under \$30,000 we don't have to get a bid on, if it's \$30,000 to \$75,000 the Board of Control has the option of waiving bid requirements, anything over the \$75,000 the only entity that can waive the competitive bidding requirement is Council.

Ms. Smith – okay, so this is expected to be under \$30,000.

Mr. Rath – Yes, there's a quote in here for just over \$5,000.

Mr. Lang – So then operationally we move forward with the agreement, we need an appropriation, right?

Director Rhodes – No, it will come out of the unappropriated balance of Storm Water.

Mr. Chute – Just for clarification Director Rhodes, so if the money is coming out of the unappropriated balance of the storm water fund, then the question before us is really just simply whether you can enter into contract with these people.

Director Rhodes – That is right. The reason for the contract is an easement and the City is going to get out of the business of perpetual care.

Mr. Lang – Two comments, at the end of the day the money is still going to be a City expense. I'm not 100% I think I still have some questions and Law Director I think I need to follow up with you on some things, I'm in support of sending this on to full Council, but I still have some questions I need answered before I can support this going forward.

Motion to send to full Council by Mr. Rath, Second by Mr. Lang, Motion passed 4-1 with Mr. Chute voting against

- Resolution No. 24-28** A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE FOR THE CITY OF NEWARK, OHIO, TO ENTER INTO COOPERATIVE AGREEMENTS WITH JASON DALE HOTTINGER, CHERI LYNN HOTTINGER, AND VARIOUS PROPERTY OWNERS ON STONEWALL DRIVE SUBJECT TO THE APPROPRIATION OF FUNDS, FOR CONSTRUCTION OF A DRAINAGE SYSTEM

Director Rhodes – The Stonewall Subdivision was put in prior to storm water and in today's world if that subdivision was going to be put in there would be a storm water management plan put in that subdivision. Stonewall goes up, there's a hill that comes down, when it rains hard, all the water comes down the hill, comes out of people's gutters it collects at the bottom of the hill and washes out properties down on Jonathan Lane. What we are proposing is putting in catch basins to catch that water and channel it out. And that's what this does.

Mr. Rath – I see in the legislation it says specifically \$36,745.

Director Rhodes – That is correct, this will be one I will have to go in front of the Board of Control.

Mr. Rath – And I believe I heard Mr. Cost mention that there were multiple quotes.

Director Rhodes – What they did is they took different bids from different guys, hence they felt the one they presented to me was the best bid.

Mr. Rath – I think I have a question for the Law Director. I see cooperative agreement exhibit A and cooperative agreement exhibit B.

Law Director Moore – What's your question?

Mr. Rath – On the previous legislation we had a cooperative agreement exhibit A, that was the agreement between us and the property owners saying that we had no responsibility once the property was completed. Here we have a cooperative agreement A saying that and then we have a cooperative agreement B. My question to you is and I apologize for not reading ahead of time, but I was hoping you could shed some light on why there is a cooperative agreement A and a cooperative agreement B.

Law Director Moore – Because at the time that this legislation was put together we did not have the cooperative agreement with the other property owners at the time, that's why there's blanks right there in exhibit B and those need to be filled in with who all is going to be involved with their cooperative agreement.

Mr. Cost – I think I'm in agreement with Mr. Lang, I think I'm going to need more information to make sure I really understand this before we spend \$5,000 on one and \$35,000 on another.

Mr. Chute – Mr. Director I'm just curious on this legislation in this instance your saying this is a remedy for an entire neighborhood?

Director Rhodes – This is a remedy to where the water is running off the backs of several properties and headed towards one property and collecting.

Mr. Rath – And how are you collecting that water?

Director Rhodes – Through a drain.

Mr. Rath – A catch basin?

Director Rhodes – Yes, a catch basin.

Mr. Rath – Is that what this project needs is installing a catch basin?

Director Rhodes – To catch the water coming off the hill and then it will go on down through a drain to the bottom of the roadway. Honestly, I would encourage all Council members to go take a look. I'll meet you at both sites and show you how the committee came up with the decision. We've got two readings yet, 4 weeks.

Mr. Rath – I understand perfectly the need to get more information on this, I feel the same myself, as you said 4 weeks before the final reading.

Director Rhodes – I'll call every member of Council and show it to you.

Mr. Cost – Complete transparency, I live on Krebs Ct., so I don't know if this is directly onto my property or not, so if I need to abstain.

Director Rhodes – No you do not.

Mr. Rath – You're saying it's not affecting any properties on Krebs Ct.

Mr. Cost – That's happened to us, the water rushes down off the hill.

Director Rhodes – That's not been reported to Storm Water, that's why it hasn't been considered. Storm Water is kind of complaint driven, like Property Maintenance, these issues have been out here, if I say 3 years, it could've been 6 years.

Mr. Lang – I just want to go back to the blanks in exhibit B, do we have all of the addresses identified and if not I guess when will we, I guess I don't feel comfortable if this gets to full Council and we still have blanks in here.

Director Rhodes – Lindsey is identifying the issues and I'll ask her about that.

Mr. Rath – So, will that mean it will be amended?

Law Director Moore – I think it will just be fill in the blanks, I don't think it's changing the legislation per say to where it will need amended, if you would like to have it as an amendment, I can certainly do an amendment.

Mr. Lang – I just wanted to clarify, is it just one other property or is their potentially several other and exhibit B is just the form for all those other.

Director Rhodes – There is a couple properties, there is another property effected, the water comes down the hill and turns to the left, turns to the right, what we're doing is capturing it to stop it from turning.

Jeff Rath – Yes, I want to see that.

Director Rhodes – I'll take that on. I'll reach out to everyone, if you want to go for a ride, we'll go for a ride.

Mr. Marmie – Just a comment and just to kind of piggy back on something that Director Rhodes indicated. Back in the early 2000's when we did invoke the Storm Water utility, Roger Loomis and a lot of folks put their heads together, we new the EPAA mandates for the sewer separation was just around the corner, we got ahead of it, we started with low fees for our Storm Water Utility so it wouldn't be a huge burden on tax payers, did a phenomenal job with it, we've done such a great job with it that we're able to do additional projects. I think our Storm Water utility has just been phenomenal for the City of Newark and it was because of the likes of Roger Loomis who got way ahead of it and got it started and everything and projects like this, for me this is just new with the legislation. It makes sense now why we have the legislation, because we've never done the agreements, but it also makes sense that we need agreements in the future because I think that's great that we aren't going to maintain those anymore, so just kind of giving a little bit of history on that and the great job that the folks at the Storm Water utility what they do with the money.

Motion to send to full Council by Mr. Lang, Second by Ms. Bline, Motion passed 5-0

Mr. Rath – Thank you Mr. Rhodes and thank you Ms. Law Director for you input.

Meeting stands adjourned

Jeff Rath -Chair