

Minutes of the Veneta City Council
Work Session
February 26, 2007

Council
Present: Mayor T. J. Brooker, Darrell Carman, Thomas Cotter, Marion Esty and Sharon Hobart-Hardin

Absent: None

Others: Ric Ingham, City Administrator; Margaret Boutell, Community Services Directory; Darci Henneman, Assistant City Recorder; Carolyn Connelly, City Attorney, and Jeneca Jones, West Lane News

1. CALL TO ORDER

Mayor Brooker called the Veneta City Council work session to order at 6:03 p.m.

2. E. BOLTON RD. SEWER LOCAL IMPROVEMENT DISTRICT (A)

At the last meeting, Councilors requested a work session to discuss three issues regarding the E. Bolton Local Improvement District (LID). Councilors wanted to know 1) the method for determining which properties benefit from a public improvement; 2) how the cost could be equitably distributed among benefitted properties (including those with irrevocable petitions); and 3) creating an installment payment process for property owners.

Margaret said the current method for determining benefitted properties is part of Chapter 3.15, Section 3.15.030 which uses the 60' minimum road frontage and 100 ft. maximum depth. Margaret said the minimum sized lot in Veneta is 6,000 sq. ft. (60' X 100'). Margaret said the current method uses the minimum size lot of 6,000 sq. ft. and assumes each buildable lot has 60 ft. of road frontage and 100 ft. depth. Margaret said larger sized lots having the potential for future development are assessed for the entire street frontage.

Margaret said the minimum 60 ft. would apply to panhandle lots. Margaret said one particular lot mentioned at the previous meeting because it was not being assessed, is actually landlocked and does not have street frontage. She said if that lot were to be divided today the City wouldn't allow it without street frontage.

Margaret said apportioning costs has been determined by City code, with the exception of the irrevocable petitions. Margaret said an issue was created as a result of the City's policies allowing developers to divided property and shift the burden of paying for improvements to those who purchased the finished lots, combined with the City's policy of allowing some properties to connect to a sewer that they would normally not connect to. She said those who have connected to a sewer, who would not normally be connected, and those who bought a lot from a developer who shifted the burden, have, in reality, not

to. She said those who have connected to a sewer, who would not normally be connected, and those who bought a lot from a developer who shifted the burden, have, in reality, not paid for a sewer line.

In response to a question from Thomas Cotter, Margaret said a large lateral line could serve several parcels. Margaret said the larger lateral would be paid for equally by each residence hooked up to it.

Mayor Brooker said the City is only considering how many potential houses may be developed on the larger parcels. He said if the City considered using a deferral process, residents would only pay for one lot until their property is further divided. He said if they decide to develop their property they would be required to pay for the additional frontage.

Thomas Cotter felt a property owner shouldn't be penalized if they choose not to develop their entire parcel.

Ric said there are several large lots in the area and it would be difficult for the City to dictate where the lateral line would be placed for future development and that will not be known until a site plan is submitted for development.

Marion Esty felt it was the City's responsibility to notify the existing owners and possible future owners of the situation. She said residents who attended previous meetings felt the City didn't adequately notify them at the beginning of the LID process.

Margaret said the only notification process would be a title search when property changed hands and the City wouldn't know that.

Darrell Carman and Mayor Brooker agreed that knowing what is in a title report isn't a City issue.

Carolyn Connelly said residents often get angry when a LID is formed and they are unexpectedly asked to pay for improvements. She recommended using the "pay for it first" suggestion made by Margaret. Rather than depending on the formation of a LID the developer is required to pay into a reserve fund and the cost of the future improvements are paid for out of that reserve rather than by the property owners. She said many cities are moving toward a "pay for it first" approach.

Sharon Hobart-Hardin said if the money is set aside before hand it becomes a nonissue.

Carolyn said irrevocable petitions are coming back to haunt several cities because when developers built homes, they didn't notify buyers they would be required to pay for future improvements.

Thomas Cotter felt the irrevocable petitions weren't as large of an issue as making sure the cost of the improvement are shared equally among residents.

In response to a question from Mayor Brooker, Margaret said if a property owner of a large parcel wanted to develop, a lateral line would go in to serve more than one parcel. She said two laterals may be installed, possibly different sizes, depending on how many lots would be developed from that property. Margaret said the cost was figured by percentage (a frontage amount only), which followed the code. She said a larger lateral would not cost a property owner more.

Mayor Brooker said the irrevocable petitions are not doing what the City intended them to do at the time they were signed. The City should have collected the funds up front, from the developers, at the time the parcels were developed.

Ric said Earnest Acres will not be a benefitted property because they're already hooked up but their developer signed an irrevocable petition. Those property owners feel they shouldn't have to pay because they already have city services.

Mayor Brooker suggested discussing Earnest Acres later in the meeting. He felt that situation is the City's fault because it allowed the properties to connect to an existing sewer line.

Margaret said the City allowed the developer to bypass the cost. She would recommend charging developers up front and have irrevocable petitions for capturing increased future construction costs. She said the irrevocable petitions may need to be used to cover the City's real costs.

In response to a question from Darrell Carman, Margaret said an irrevocable petition is an agreement between the City and the initial developer, where the developer agreed to participate in paying for the future improvements, which are listed in the agreement.

Darrell Carman said the City got an irrevocable petition from a developer for Ernest Acres but allowed him to connect to an existing sewer line. Now that the City is putting in a sewer line that abuts one side of that subdivision, the property owners are asking why they should have to pay when they are already connected to sewer.

City Attorney Carolyn Connelly said the key word is "benefitted". Just because a resident has an irrevocable petition in place doesn't mean they're necessarily benefitted by law and the City can only assess benefitted properties. She said there is an issue with the "benefitting" properties because they're already connected to another sewer and the code defines the property as outside the scope of the definition. She said it is a two-tiered

problem.

In response to a question from Darrell Carman, Carolyn Connelly said the City would have a much stronger stance if a property owner was within the code definition of "benefitted" and were hooked up elsewhere. She said the irrevocable petition would be sufficient for the City to assess them. But because of the code definition, she couldn't see a way to enforce it. She said Ken Jones agreed with her.

Ric said the policy from now on should require all properties to share equally and equitably in the build out of the infrastructure of the sewer system. He said regarding the six properties with irrevocable petitions, there should be an instrument that says they should be sharing in the equitable cost of all residents because they didn't have to pay for the sewer line they are connected to.

In response to a question from Mayor Brooker, Carolyn Connelly said there is case law where there was not an irrevocable petition in place and the City assessed a lot that was connected to a sewer elsewhere. She said it found that just because the resident was connected to sewer elsewhere didn't mean they might not also have benefitted and the City didn't bear a burden of showing some benefit. The City is required to show some kind of benefit. Carolyn Connelly said if they are a benefitted property and they have an irrevocable petition, they cannot remonstrate against the assessment.

In response to a question from Thomas Cotter, Margaret said each of the properties, with the exception of those already connected to sewer, will also be required to pay an SDC fee. She said the SDC fees for Ernest Acres were paid at the time of development.

City Recorder Sheryl Hackett said the lots in Ernest Acres that have an irrevocable petition attached to them would not have been developed had the developer not entered into the irrevocable petition because there was not a sewer line on the portion of E. Bolton where some of the lots would have to connect to. She said without using private easements to get to a sewer line that they didn't pay for they wouldn't have a lot. The lots would have stayed undeveloped.

Mayor Brooker said it's the City's fault and the particular parcels fronted on E. Bolton should not have been allowed to hook up to the other sewer near their property.

In response to a question from Darrell Carman, Mayor Brooker said no, the City should not bear the cost of it but the residents should not be penalized for being hooked up if the City allowed them to. He said they haven't shared any of the cost of the infrastructure. He said Earnest Acres is a separate issue from making the ordinance work with respect to a normal hook up, under normal conditions, for a sewer that the property is benefitting from. He said he would like to resolve the ordinance issue first so the ordinance is

applicable and correct. He said the first decision to make is how to assess the individual properties (based upon the frontage and depth or some other method). He said there are several odd shaped properties, panhandle lots, and the landlocked parcel that should be taken into consideration. He said it is difficult to make it equitable with the method currently being used.

In response to a question from Darrell Carman, Margaret referred to a diagram showing the property that is not being assessed. She said when that larger parcel is further subdivided the developer will be required to construct a street and install the infrastructure to serve those lots.

Ric said an example would be the 587 lots being developed in the Southwest Area. He said the developers will be required to build the entire infrastructure to serve those lots. He said in that situation they shouldn't have to pay for the sewer line that runs along Territorial.

In response to a question from Darrell Carman, Margaret said if the Southwest Area was hooked up and a line was needed down Territorial, they would only be required to pay for the 60 feet of frontage on Territorial.

Thomas Cotter said he thought Veneta Municipal Code Chapter 13.25 allows for SDCs to pay for new construction or new development.

There was much discussion about how to equitably charge residents for the sewer lines and sidewalks. Carolyn Connelly said there is less of an ability to remonstrate for the cost of sidewalks.

In response to a comment that the City hasn't charged residents for sewer lines in the past, City Recorder Sheryl Hackett said years ago LIDs were commonly used to pay for sewer lines using the same method of the 60 ft. x 100 ft. formula. She said when the E. Bolton pump station went in and the E. Bolton sewer line was paid for with grant funds, residents on 8th St. complained that it wasn't fair because they had to pay for the sewer line installed on their street. It was explained that the E. Bolton residents had benefitted by a grant; however, they would still be required to pay the SDC charges when they connected.

The Council said their main concern is being fair to all residents. Thomas Cotter suggested every property owner be charged a fixed amount per resident, then the City would pay the difference with SDCs.

Sharon Hobart-Hardin said the deferral time is also an issue. A major question residents have is how long do they have to pay for it.

Margaret said Carolyn Connelly already looked at the referral code and unless the parcel is totally undeveloped and nothing is hooked up, they cannot do that type of deferral.

Carolyn Connelly said the deferral option language is very narrow. The plain reading is the deferral option applied mostly to street improvements or if the water and sewer lines are being put in under a street that is being improved. She said there are several types of deferrals that could be applied.

Mayor Brooker said the amount residents are charged shouldn't vary so much. He said the estimates for E. Bolton vary from \$6,000 to \$28,000 for one house. He said the City needs to make it more fair for all property owners even though larger parcels have a higher value. He felt there should be some way to remove some of the cost for current property owners with a deferral program or by collecting the costs from the future developers.

With the consensus of the Council, Mayor Brooker appointed Darrell Carman and Thomas Cotter to head a subcommittee that will meet with staff and legal counsel to refine a plan and bring it back to the Council with a solution.

Sharon Hobart-Hardin asked the subcommittee to think past the E. Bolton Rd. residents and include other areas in the City.

In response to a question from Mayor Brooker, Carolyn Connelly recommended collapsing Ordinance 315 and 310 so there would be a list of options of how to assess property. She said those two ordinances are trying to address LIDs but they should be more clear.

Ric confirmed the sub committee members are authorized to work on all three issues.

3. ADJOURN

Mayor Brooker adjourned the Veneta City Council work session at 6:55 p.m.



T. J. Brooker, Mayor

ATTEST:



Darci Henneman, Assistant City Recorder
(minutes prepared by dhenneman)