Minutes of the Veneta City Council Work Session
December 15, 2014

Present: Sandra Larson, Thomas Cotter, Victoria Hedenstrom, and Thomas Laing

Absent: Brittany Boothe

Others: Ric Ingham, City Administrator; Kay Bork, Community Services Director; Shauna Hartz, Finance Director; Kyle Schauer, Public Works Director; Darci Henneman, Assistant City Recorder, Carolyn Connelly, Legal Counsel; Tim Brooker; and Joan Mariner, Fern Ridge Review

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1. **CALL TO ORDER**
   Chair Larson called the Veneta Work Session of the City Council to order at 5:35 p.m.

2. **E. BOLTON RD. SEWER IMPROVEMENT PROJECT**
   a. Project Overview
   Bork said last month staff provided some background information about the possibility of forming a Local Improvement District (LID) for E. Bolton Rd. sewer improvements. She said staff had outlined the LID process and stated there were no alternative funding options available. After Carolyn Connelly, legal counsel, reviewed the packet materials, she reminded staff of another possible option, a Zone of Benefit (ZB). Council then directed staff to hold a work session to review all of the funding options. She said tonight, Ms. Connelly will review the differences between an LID and ZB. Bork provided a brief background on the project description and boundary for the E. Bolton Rd. Sewer Improvement Project and presented a power point presentation.

   Local Improvement District (LID)
   In 2006 and 2009 the project boundary included 30 households on 29 tax lots. Currently there are nine properties, within the original boundary, connected to sewer and a potential for an additional 36 lots to be created through land division.

   In response to a question from Mayor Larson, Ingham said in 2009 the LID costs were $213,900. He said the Council can choose to amend the boundary which will need to be discussed because all the lots in Ernest Acres, along with a few others, are already hooked up.

   Bork said currently there are 18 recorded irrevocable petitions and those petitions follow the property.

   Ms. Connelly provided a general overview and said she would provide more detail later in the meeting. She provided a definition for an LID and the process for establishing one. She said LIDs are used frequently by cities because it's a way for a city to ensure it will be paid back for some or all improvement costs by placing a lien on the property.

   In response to a question from Victoria Hedenstrom, Ms. Connelly said LIDs and SDC liens have priority. She said unless the lien has been subordinated, it will be paid when the property is sold. She said but if the City has subordinated and the property value is less that the owed mortgage, the City wouldn't get paid.

   Ms. Connelly described the eight steps it takes to develop an LID.

   In response to a question from Thomas Cotter, Ms. Connelly said if a property owner signs a non-remonstrance agreement, it runs with the property even if the original signer sells the home. She said a non-remonstrance agreement and an irrevocable petition are the same thing.

Ingham said the developer of Ernest Acres signed irrevocable petitions in order to develop those lots. He said at times, it's not the property owners that sign the agreements.

Ms. Connelly said unfortunately, many times the developer will pass the costs on to the home buyer who is unaware of the potential LID and that an irrevocable petition is attached to the property. She said when the City wants to form the LID, property owners have no idea the petitions exist and that they are required to pay for the improvements.

Ingham said an irrevocable petition should be provided by the title company and identified in the property title search.

In response to a question from Thomas Cotter, Ingham said the Council had policy discussions in 2006 and 2009 and no final decision was ever made. He said six lots in Ernest Acres Subdivision are currently connected as part of their development. He said when the upsizing took place, the E. Bolton Rd. LID was undecided but those lots have always been included in the calculations for a LID in the E. Bolton area.

Ms. Connelly said those lots would have paid SDCs when they hooked up to the other line so the only cost they will have with this improvement is the assessment if they're included as a benefited property. She said if they are still able to divide their property then they are still considered benefited.

In response to questions from Mayor Larson, Ingham said when Ernest Acres was approved the line from Cheney Dr. was upgraded so those lots would not benefit from the new sewer lines.

Schauer said currently Ernest Acres is connected by gravity flow service and would not benefit from the E. Bolton LID.

In response to a question from Victoria Hedenstrom, Schauer said the lots that front East Bolton are connected via Pine St. He said East Bolton Rd. changes to Pine St. north of the intersection.

Ingham said when the sewer was made available to the Ernest Acre lots, they connected at that time.

Ms. Connelly reviewed and explained the timeline. She said property owners can pay their costs up front to avoid interest or a lien being placed on their property. If a lien is recorded, they can apply to make installment payments for up to 10 years with interest.

Zone of Benefit

Ms. Connelly provided a definition for Zone of Benefit (ZB) which are mostly used by developers to recover some of the costs of constructing public improvements. She said ZB can also be utilized by cities. Costs are apportioned amongst benefited properties but only recovered by the City when connection to the public improvement is made. She said there is no state law or statute addressing ZBs but there is an entire ORS chapter dedicated to LIDs. She said there is more flexibility with ZBs but less security. She said the engineer creates the same type of report for an LID or ZB and allocates improvement costs evenly amongst all property owners. The Council adopts a resolution which is recorded and follows the property until the development takes place. A lien cannot be placed on the property with a ZB. She said ZB assessments can also be established and property owners have no right to remonstrate; they can voice their reasons for not wanting it but there's no legal means to make the City stop with a ZB. She said if the Council wanted to create a ZB, an ordinance would be drafted and approved that sets the framework for the ZB application.

b. Financing Options

i. Local Improvement District (LID)

Hartz said property owners contribute 0 to 100% of the project construction costs. Council establishes assessments, two public hearings are held and resolution is adopted in a three to four month process. Installment payments and deferrals are allowed under City code and assessments can become liens on property. The time period of payment is between 10 and 30 years.

ii. Zone of Benefit

Hartz said property owners contribute 0 to 100% of the project construction costs. Council establishes assessments. An ordinance is established in a one to two month process. Installment payments and deferrals are allowed through an ordinance. Liens cannot be placed against property and do not get paid when the property changes hands. Payment agreements could be offered. The time period for payment usually sunsets after 10 years and the obligation goes away after 10 years. The Council can modify the ordinance but that requires more staff time.

In response to a question from Thomas Cotter, Ms. Connelly said the City cannot change a ZB to make the assessment a lien. She said the structure is different because the assessment is not owed until the property is connected.

In response to a question from Thomas Laing, Bork said SDC's and connection costs are due upon connection.

In response to a question from Ingham, Ms. Connelly said the ZB cannot be applied to the 19 lots and said the Council could make an allowance to change or waive that 12 months connection requirement. She said those lots have something built on the property and are developed but once the sewer line goes in, a totally separate provision of City code requires developed parcels to connect.

In response to questions from Thomas Cotter, Ms. Connelly said any existing home within that range, and under a ZB, is a developed property, and would have 12 months to hook up or ask for more time to hook up. She said at that time they would need to pay the ZB charge which could depend on how the engineer allocates the connection charge and the methodology may allocate the full portion of the charge or divide it out.

In response to a question from Thomas Cotter, Ingham said there has been a shadow plat done which determined a potential for 36 lots. If we were to provide direction to the City engineer we would make sure all 36 potential lots would be included as part of the calculations in the final assessment.

In response to a question from Mayor Larson, Ingham said the engineers report would be the same for an LID and a ZB.

Ingham said this is a tool for infill development of property. He said lots 3400 and 700 have a potential to subdivide into seven other lots, that's where we create the level of fairness and equity in spreading out the cost of the sewer line.

In response to a question from Mayor Larson, Ingham said the lots cannot be developed until the sewer line is installed. He said every lot has one home on it. He said with a ZB the City couldn't require property owners to pay for future development until it's developed.

In response to a question from Victoria Hedenstrom, Ms. Connelly said LID's are controlled by state statutes and because City code is already in place we can predict what it will look like more so than with ZBs. She said ZBs are not controlled by state law and we don't have code in place so there's more freedom to draft a more flexible code; charging and requiring the existing home be hooked up but not potential development. She said that's the kind of option ZBs allow. She said with an LID the City pays the improvements cost and we assess the properties for all costs even if the lots with potential development never develop. She said with a ZB the assessments on potential development are not owed until the development occurs.

Ingham said we're hopeful some of the larger parcels will eventually be developed and subdivided.

iii. City Funded Project
Hartz said the City also has the choice to pay for the improvements with accumulated and budgeted City funds with no expectations of being reimbursed by the property owners or by placing liens. Connections would still require hook up charges and SDC's but public improvement costs would not be reimbursed to the City. She said with this scenario, the City would solicit bids just like any other improvement project. She said this fiscal year budget included $300,000 for a sewer infill project in capital outlay but it was not specified to any particular project.

c. Pros & Cons of Financing Options
Bork briefly reviewed the pros and cons of all three funding options. She said a ZB will require less staff time than an LID. She said if the City funds the entire project, staff is hopeful infill happens quickly. She said there may be some fall out from residents that were required to pay for an LID if we use a ZB for this sewer project.

In response to a question from Thomas Cotter, Ingham said there is a different flow of revenue if the City funds the entire project. He said if we build it, we make everyone hook up which generates revenue from sewer fees.

Hartz said sewer fees generated would be about $31,000 per year.

Ingham said that figure will cover operation and maintenance costs but it doesn't reimburse the City for construction costs.

In response to a question from Thomas Cotter, Ingham said staff wants to install the main sewer line and fix the road conditions on E. Bolton. He said we could use some SDC funds but we're going to be asked where that revenue came from. He said we've been able to build up reserves to be applied to future capital improvement projects and maintenance but residents may question why we are using reserves.

Victoria Hedenstrom suggested a ZB would be a good middle ground and suggested it be modified to require residents pay for a percentage and not all the costs associated with the improvements.

d. Next Steps
Ingham said once we have a direction, we'll start discussions with residents hopefully to come up with something that is beneficial for all. He said a blended option may be more attractive to residents. He said if residents don't want to sign an irrevocable petition they likely know we'll require them to hook up in 12 months.

In response to a question from Thomas Cotter, Hartz said if the City funded the entire project our reserves would take a hit but it wouldn't wipe it out.

Mayor Larson said she doesn't think we can sell a City funded project to those residents that paid for previous LIDs.

Tim Brooker said the issues with a ZB is the City may never recoup all of the expenses plus ZBs aren't governed by state law and an LID is. He said the City needs to be cautious when we use a different method from what we've already created. He said there's a lot of work involved to make sure all the issues are covered.

3. OTHER
None

4. ADJOURN
Chair Larson adjourned the Veneta City Council at 6:35 p.m.

Sandra Larson, Chair

ATTEST:

Darci Henneman, Assistant City Recorder
(Minutes prepared by DHenneman)