

City of Rigby  
Council Meeting Minutes  
Public Hearing – Intention to Create LID #8  
June 25, 2014

Council President Maloney called the meeting to order at 7:00 pm Wednesday, June 25, 2014. Councilman Maloney explained the Mayor was out of town and he would be conducting the meeting this evening. He requested that cellphones be shut off. He also reminded those speaking to be civil and he will not tolerate personal attacks on other people, staff or council members.

The pledge of allegiance was given by Mike Maloney and Councilman Olsen offered the prayer.

Those attending:

Councilman Walker	Present
Councilman Taylor	Present
Councilman Maloney	Present
Councilman Sullenger	Present
Councilman Simonson	Present
Councilman Olsen	Present

Also present: Attorney Dunn

Presentation of Proposed LID with Keller's & Associates:

Marvin Fielding, of Keller's & Associates, presented two boards showing the proposed design and layout of the road running west from the intersection of 3<sup>rd</sup> West to 5<sup>th</sup> West along 1<sup>st</sup> North. The project calls for a road to be constructed with curb & gutter to protect the road base with the road being 48 feet from back of curb to back of curb. Sidewalks would be installed on the north side and partial sidewalks on the south side except for that section which involved the quiet title. He noted the illustration being presented this evening differs from what he presented on site earlier this week. If sidewalks are wanted on the south side of 1<sup>st</sup> North through the section involving the quiet title the city would install them at city's expense.

He summarized the estimated costs base on prior bid reviewed for similar work. The actual price would be based once actual bid prices were obtained. The cost allocation is 70% to the city and 30% to the property. Driveway approaches is based on the width of the sidewalks. Several homes have requested modifications to their driveway approach and those modifications are not reflected in the price being presented. The project could be completed this year, but is tight on the back end and is subject to weather conditions. Keller's did request permission to enter on their property to tie in the landscape with the curb & gutter.

Barry Lewis: Asked about the number of ADA access on the drawing showed 8 points while the bid amount showed 6. Fielding explained the drawings were preliminary and is subject to change.

Speaking in Favor:

**Mark Olsen – 440 W 1<sup>st</sup> North** – Is in support of the LID. He purchased the property knowing the property was without curb and gutter and feels the improvements are needed. Having completed other development in the city he has installed curb and gutter. Felt it was time to move forward and get the road improved.

**Keith Smith – 191 W Fremont** - Stated the LID needed to go forward. Indicated he started the project while he was mayor. The road serves one of the newest and better developments in the city. He felt prior

LID have all involved cost sharing between city and property owners. The precedent that prior councils have established with cost share needs to continue with this project. Homeowners along 1<sup>st</sup> North needs to step up and share in the cost of the improvements. LID improvements adds to the value and sell ability of homes.

**Todd Stowell – 482 Marian Court** – Thought the improvements made on Main Street were a great asset to the city. Citizens from other cities all comment on how nice Main Street looks. Mr. Stowell feels the council needs to be consistent with what has been done with street improvement over the past years. He has paid for three prior LID and feel the council needs to be consistent with that policy. The LID was a financial burden on him but he felt the obligations he made was fair. If no curb and gutter were to be installed he indicated it would create a monster.

**Those Speaking in Opposition:**

**Robert Cardwell – 579 W 1<sup>st</sup> North** – Mentioned that in prior meetings no one mentioned that a lien can be filed on the property, the property could be foreclosed upon with past due payments. Many items need to be covered that have not been covered. Suggested that the LID could be modified with adjoining property with surrounding subdivisions. Mentioned Idaho Code section 50-1709 that if the number of residents complained it could be stopped for 6 months. Cautioned that the council members needed to read the code prior to proceeding.

**Anna Cardwell – 579 W 1<sup>st</sup> North** - Opposed with the taking down of the trees along Gentle's property. The road needs to narrower than what is proposed.

**Cory Walker – 547 W 1<sup>st</sup> North** - Is not opposed to the improvements but is opposed if the only reason for the improvement is to comply with the agreement, then he would be opposed. If that is the case, the city should own up to the error and do the improvement.

**Barry Lewis – 560 W 1<sup>st</sup> North** – Read from a letter that the council received earlier. He commented on a request for information that was stated about repairs vs. improvements. Both the mayor and the attorney indicated any repair done would be considered an improvement. He wanted the reference that the mayor and attorney were referring to. Felt the mayor has made misstatements in that no relocation of power lines would be needed; the road would be 42 foot width as stated in talks with the attorney and public work director; and in 2012 the brochure showed the road being 38 foot width and with 4 foot sidewalks on both sides of the road.

**Joe Sites – 212 N 4<sup>th</sup> North** – Wanted to reiterate what Mr. Lewis was requesting the difference between repair and improvements. During the negotiations the road width was agreeable to 42 foot width. The agreement can be verified with the recording that has done during the talks. 48 foot road is too costly to maintain. Felt those in favor of the road aren't the ones paying for the improvements.

**Angela Woodhouse – 535 W 1<sup>st</sup> North** – Questioned why the council is forcing a change of lifestyle that the road improvements will do to the residents. 1<sup>st</sup> North is not a connector road as is Annis Road. There has not been any accidents on the road, questioned why the road needed to be 48 foot wide. The city was asleep and allowed the house built on 4<sup>th</sup> West that closed off the access on 2<sup>nd</sup> North to the subdivision. The affordability of the road is beyond the reach of those living on the road

**Deanna Dinsdale – 449 W 1<sup>st</sup> North**- Recapped the suit and agreement involving H&S Development and the city. Mentioned the agreement was entered into November 2007. Mentioned the city did not have the right of way for that section of the city that was at one time a county road and was never in the city. Summarized the reason of building 5<sup>th</sup> West and the forgiveness of impact fees granted to H&S Development. Property was sold to the church without proper access being provided prior to the

construction. Quoted Mayor Smith in 2013 wherein he stated the road lacks curb and gutter and is not in conformity with current standards of 42 feet.

(Time having expired requested additional time for her son who owns property but is not able to speak. The Chair allowed additional time.)

**Robert Dinsdale 449 W 1<sup>st</sup> North:** Mrs. Dinsdale displayed for the council a brochure that Keller's made in 2013 showing the road to be 42 foot width with 5 foot sidewalks on both sides of the road. Questioned the cost of putting out the brochure. Felt the 42 foot road is sufficient. Should not be done for the benefit of developers.

**Darwin Dinsdale – 449 W 1<sup>st</sup> North:** Stated that the governor indicated the use of a LID is different than what is being proposed. Asked the council if they had read the Idaho code regarding LID (50-1700). Felt the LID is a legal method to mortgage property. Recapped the sewer construction that was done three years ago. The project was never completed and left open. The water line was never completed and the road surface was never repaired after its installation. The width of the road (48) is not wanted or needed. The improvement only benefits land developers. Feels the use of tax money is double taxation. It appears that the council has already made up their minds in proceeding with the project, why have a hearing? Wanted the council to read all the letters sent in by the citizens.

**Jeff Coletti- 548 W 1<sup>st</sup> North:** Questioned the validity of the city to sign an agreement with a developer for the benefit of the developer and have the citizens pay for the improvement. The water line installation the road was tore up in 1996 and has never been repaired back to the condition it was. Several streets in town currently do not meet the conditions being imposed on 1<sup>st</sup> North. What is the difference between repairs and improvements? The road needs repaired only where it was dug up not the entire length of 1<sup>st</sup> North. Why are sidewalks being installed? No one walks on the sidewalks. Why will the city file a lien on the property? Cannot recall where there has been accidents with the road, why is it so wide?

**Victor Gentle – 191 N 3<sup>rd</sup> West:** Opposed to the LID with the removal of trees and losing 20 foot of property that he owns. He is opposed to the sidewalks and the width of the road.

**Carma Meisinger –** Left prior to speaking.

**Dena Johnson – 446 W 1<sup>st</sup> North/ 501 N 3<sup>rd</sup> West:** Stated she did not receive a letter of the LID and question why she had not received it. Lived on 1<sup>st</sup> North and after getting married needed to move into a bigger home. She has been under water on the home since 2009. Any amount added to a LID would still keep her home under water. Asked where the funds from the sewer project is being used. Stated the rent being received on the home doesn't pay the mortgage payment.

**Phyllis Lewis – 560 W 1<sup>st</sup> North:** The will of a handful of people is being put on the residents to pay. Nothing was mentioned about the improvement during the community review. No one questioned that the road need to be repaired not improved just repaired. Residents are agreeable with something other than what is being proposed. If the agreement "hog ties" the city then the city should forego any improvements.

**Stacy Grant – 482 W 1<sup>st</sup> North:** Not opposed to the upgrade of the road and it needs curb and gutters. The road needs to be improved. We live in the city and not in the country. The settlement offered earlier was fine being 42 foot width. Wants the council to consider the financial burden being imposed on the residents. Wants the LID cut down in price to the homeowners. Mentioned that the agreement may or may not be a factor, if it can't be changed, so be it. Cut down on the sidewalks to save the residents

money. Also want the road to follow the curve of the road. She is losing close to 18 feet of frontage in her yard.

**Kathy Lazalde – 402 W 1<sup>st</sup> North:** Also want the road to follow the curve of the existing road. Favors shifting the sidewalks being funded to assist with the cost of the curb/gutter. Felt sidewalks are not necessary. Everyone walks in the road way even when sidewalks are available.

The chair concluded public comment at 8:15PM.

**Council discussion:**

Councilman Walker – Asked the clerk about the 60% clause in section 1709. The clerk responded that if the citizen asked for the improvement and if 60% of the residents affected were opposed, the 6 month rule kicks in. If the city initiated the improvement, the code excludes the 60% clause.

Councilman Taylor requested the code section be made available for reading. A copy was presented to Councilman Taylor for his review.

Councilman Walker recapped prior percentages and dollars cost that were done in prior years. He indicated that when inflation is factored into the amounts the percentage of cost share is the lowest of all prior LID.

Attorney – The attorney read code section 50-1709 entitled “protests and hearing”. He noted the wording “other than city council or board of county commissioners” shall not be allowed to proceed for a 180 days. If the city proposed a LID the 60% does not apply and the 180 day holding period does not apply.

The attorney recapped the goal of the quiet title was to obtain a right of way for a 42 foot road with sidewalks on both sides totaling 52 feet. It was later determined the 42 foot would not be in compliance with the agreement the city entered into and the council changed the width from 42 foot and eliminated the sidewalks on the south side through the quiet title and put the sidewalks at 4 feet to stay within the 52 right of ways.

Councilman Taylor: Commented that what he had received appeared to have had a line whited out. He went on the legislative web site and noted the wording the attorney read is missing from the document that was handed to him.

Councilman Simonson: Felt the council has been working to reduce costs but there has been a lot of misinformation being handed out. The question of the width of the road when 42 ft was found not available, the costs of increasing the road width would be borne by the city and not put on the residents of 1<sup>st</sup> North. The current council is caught due to prior commitments occurring in prior years.

Councilman Walker: The council needs to consider the needs of the entire city and not just the residents along 1<sup>st</sup> North.

Councilman Taylor: Asked a follow up question concerning sewer money that should be available for the road. Councilman Simonson indicated that when the sewer line was dug up to replace the sewer project did have funds that covered the cost of the line and the road surface are in the funds the city is seeking for reimbursement. The clerk interjected that the statement needed clarification. There were funds that could have been used for road surfacing but, due to the delay in using the funds, DEQ has requested the loan project be closed and the city could seek recovery of funds expended but would not keep the program

open to include funds for 1<sup>st</sup> North. Marvin Fielding, confirmed that the loan needed to be closed out and those funds are no longer available.

Councilman Taylor: Commented that if a sidewalk could be removed it would be the one on the north side. Councilman Simonson commented that future developer would look back at 1<sup>st</sup> North and said the city didn't install sidewalks why should we? The city attorney indicted that the city needed to comply with what is in the city code.

Councilman Taylor expressed his concern that the road went from 42 to 48 feet and had not heard until now. He stated the discussion has been 48 feet for several months. The council has discussed the 48 foot in almost every council meeting.

Councilman Simonson didn't want the city to hold land not being used for road or sidewalks and any excess land should be deeded back to the applicable property owner.

Councilman Olsen indicted he was concerned that the information about the LID was not sent to all the residents. The clerk indicted the letter were sent out to the residents based on the listing of ownership that Keller's provided being the legal property owners. Mrs. Johnson letter was sent to the 1<sup>st</sup> North address as recorded with the county. The attorney noted that Mrs. Johnson should update her address with the clerk.

Councilman Simonson asked if the council were to proceed what is the next step. The attorney indicated the next step going forward would be to create an ordinance that created the district, call for bids and notification of the estimated cost to the property owners which cannot increase by more than 20% that is stated in the ordinance.

Councilman Simonson stated that at any time in the process the LID can be stopped. The attorney indicated yes.

Councilman Walker indicated that any decision made will always be met with opposition of one sort or another. He noted that one person he works with stated to him that this controversy has been going on for 20 years earlier when he lived on the street. He noted that the document handed to Councilman Taylor had a line intentionally omitted in an attempt to sway the council. He felt this kind of stuff is difficult to consider. Councilman Taylor said he would not say the omission was intentional but the wording was not in the document handed to him. He felt it was crucial that when you are looking at documents, everything is there.

Councilman Taylor moved to proceed with the ordinance of the creation of the LID District #8 seconded by Councilman Simonson.

The chair called for a polling of the council.

Councilman Walker	Yes
Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Olsen	Yes

**Adjournment:**

Councilman Simonson moved that the meeting be adjourned seconded by Councilman Sullenger seconded.

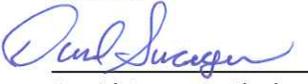
Meeting adjourned 8:55PM.

City of Rigby



Jason Richardson, Mayor

ATTEST:



David Swager, Clerk