

**CITY OF WILLIAMSTON
CITY COUNCIL
AUGUST 12, 2010
SPECIAL MEETING MINUTES**

1. Call To Order:

The meeting was called to order at 7:40 a.m. in the City Hall Council Chambers by Mayor Michelle Van Wert and the Pledge of Allegiance was recited.

2. Roll Call:

Mayor Michelle Van Wert, Mayor Pro-tem Michael Moody, Council members Randy Pail, John Pratt, Andy Simmons, and Scott VanAllsburg. Absent: Timothy Grossman.

Also Present:

City Manager Tim Allard, City Clerk Holly Thompson, City Attorney Timothy Perrone, Police Chief Bob Young, City Engineer/Public Work Director Scott DeVries, C2AE Engineers Kevin Feuka and Roger Marks, and citizens Williams and Melanie Schall, Attorney Kirby Albright, and other members of the public.

Motion by **Moody**, second by **VanAllsburg**, to excuse Grossman. **Motion passed by voice vote.**

4. Approval of Agenda:

Motion by **Moody**, second by **Pail**, to approve the agenda as presented. **Motion passed by voice vote.**

5. Audience Participation:

Kirby Albright, Attorney for Karen McGarry, stated that he has taken time to become familiar with this case regarding the N. Williamston Road project. He cautioned the City to measure twice and cut once and believes this process has moved too quickly for the City to be sure they have followed this rule. He understands the project having a safety component with the hill that the City wants to cut down but suggests that the City should follow their own process and follow the preservation aspects since it involves federal money. He believes these issues have been missed. It is his understanding that there has never been a resolution by the City Council to disregard their own ordinances and he understands the project involves a swale and ditch approach and he believes the City ordinances require curb and gutter. He stated if there is not enough money to do the project correctly the City is not really aiding the community in going forward. He urged the City to review their own rules regarding curb and gutter because it leaves the City open to contentions that the process has not been followed. The other aspect of the project is the alignment. The project would move the road to the west to match up with the section line. To balance the need for safety and preservation, the road does need cut down but doesn't necessarily need to be moved from its alignment. If it isn't moved from its present alignment then there is no additional adverse affects on the historical aspects of the properties out there. He stated that the 106 application filed states that there are no adverse affects on the historical properties because the roads are already there. The road is being moved and therefore makes adverse affects on the historical properties. He asked that the City not move forward with this project as is and give the stakeholders a say.

6. Action Items

6a. N. Williamston Rd- Phase II Project, concerning action taken by City Council on July 26, 2010 to approve MDOT contract securing grant for the N. Williamston Road- Phase II project and

Resolution authorizing Mayor and City Clerk to sign above referenced MDOT contract as required by MDOT:

Roger Marks stated that C2AE is present to support the City. He addressed that the City quickly made a decision to do the project to take advantage of the funding that became available. The project is in process with the funds obligated by MDOT. When an application is done with SHPO, it's up to the section 106 reviewer to make sure that there are no adverse affects. The concept of measure twice cut once, the City has the opportunities to do that but still continue on with the process and make a decision on what to do with the process.

Mayor Van Wert asked if Mr. Marks would agree that the City has taken that opportunity to follow the process. She stated that there has been special meetings, and open house, meetings with property owners, and public notices.

Roger Marks stated that C2AE is not taking any short cuts or not doing things that need to be done. He stated that the City is currently in process to approve more services from C2AE to make sure they are doing everything they can to follow the process.

Manager Allard stated that there is a drafted letter to send to SHPO that he distributed to the Council. He explained the letter and commented that City staff is very busy with all of the City projects. The proposal from C2AE was also distributed in the amount of \$2700 for work to be done on a time and materials basis.

Mayor VanWert asked for clarification that the City has taken advantage of the grant money that Webberville was not able to use.

Roger Marks confirmed this.

Councilman VanAllsburg commented that the requirement is a 52 foot wide road. He stated that he was told by the City Manager that there are ten feet available on the Schall's side and there is 12 feet available on the other side to the trees. He is hoping that the Council will consider applying for an exception so there is less impact on Ms. McGarry's yard and the trees would not have to be cut down. He added that he would like to see what a curb and gutter solution would cost and if it could minimize the affect on Ms. McGarry's front yard. He wondered if the Schall's would be willing to give the City four feet of their yard so the road would be able to stay in the same location.

Kevin Feuka stated that the City has not just run through the process. All steps have been taken and C2AE has been thorough. He added that the City could request a design exception in other words a waiver of the standards that allows the road to shift closer to what Councilman VanAllsburg is talking about. The exception would be not cutting down the trees and reducing the clear zone.

Mayor Van Wert asked if these were MDOT requirements.

Kevin Feuka answered that its Federal Highway Administration requirement that MDOT's administering. The state is obligated to administer and follow and make judgment on when an exception is given subject to federal highway discretion.

Councilman Pail asked if there is curb and gutter, is there still the same clear zone.

Kevin Feuka answered that there would be.

Roger Marks stated that there was some talk of a noise barrier. They are currently looking into seeing if there are any issues with noise that would have an adverse affect on the properties. Each item of concern is being addressed by C2AE. A slight correction in the hill should improve the safety and site distance. He does not see anything that would stop the project since they are doing everything they can to address any issues.

The Mayor stated that she believes the City is looking at every aspect for this project.

Manager Allard stated that the City has been working to keep everything within the City right-of-way.

Roger Marks stated that a design exception means doing something that goes against federal standards.

Mayor Van Wert commented that it was her understanding that there is a requirement from MDOT that the road be shifted.

Manager Allard stated that it is to work within the right of way and the cut down of the hill. The 52 foot clear zone is being mandated by MDOT. He stated that Ms. Schall has been clear from the very beginning that they would not grant an easement to the City for this project.

Motion by **VanAllsburg**, second by **Pail**, to recognize Melanie Schall. **Motion passed by voice vote.**

Melanie Schall stated that this is very unfortunate. She would have been happy to help with the process from early on and she is very familiar with SHPO processes. She added that there were no private meetings with the Mayor and Ms. McGarry and if she felt there was a private meeting, she is mistaken. If Ms. McGarry felt she had a voice with Council, she would not have had to hire a lawyer to represent her. She stated that she has received misinformation from people about this project and it is going to cost the City \$2700 to work with SHPO now. She commented that the open house was not to discuss the project but to tell them what was going to happen. She felt that the Council, the City, and C2AE have created an adversarial atmosphere.

Mayor Van Wert stated that it is her understanding that it has been proposed all along to work within the right-of-way. She also clarified that she met personally with Ms. McGarry on this issue the Sunday before the previous meeting. She listened to her concerns and followed up with an e-mail to Manager Allard identifying her concerns. She stated that there have been multiple public meetings with public postings and e-mails.

Motion by **VanAllsburg**, second by **Simmons**, to recognize Melanie Schall. **Motion passed by voice vote.**

Melanie Schall stated that Section 106 requires the City to contact the property owners.

Councilman VanAllsburg stated that if Karen Joy McGarry had been at the meeting where the Council was deciding on design consideration would have turned out better than it has now, and it should be a lesson.

Councilman Pail questioned the request for the extra services.

Roger Marks stated that C2AE will be trying to balance the development with the historic preservation.

-Moody left at 8:05 a.m.

Motion by **Pail**, second by **Pratt**, to approve the C2AE work proposal dated August 11, 2010 in an amount not to exceed \$2700 on a time and materials basis as presented. Yes: Pratt, Simmons, VanAllsburg, Van Wert, Pail. No: None. **Motion passed.**

Motion by **Pratt**, second by **Simmons**, to have written communications sent to both SHPO and MDOT to include all facts and supporting documents that are available within the time frame required. Yes: Pratt, Simmons, VanAllsburg, Van Wert, Pail. No: None. **Motion passed.**

Motion by **Pratt**, second by **Simmons**, to include legal counsel's total involvement in this issue for the Williamston Road Phase II project. Yes: Simmons, VanAllsburg, Van Wert, Pail, Pratt. No: None. **Motion passed.**

7. Audience Participation:

William Schall, 3150 N. Williamston Road, stated that from the onset the project was depicted as a resurfacing of North Williamston Road. He believes that is how this problem started. After seeing the plans later in the process it was obvious this was much more substantial than that. He reads in Section 106 that they should be used as consultants in this project because of their interest in the historical preservation. He believes there was not enough concern from Council to show up at the special meeting after the open house and only two members showed up. He also stated that Council was also not present for the open house.

The Mayor asked if the project was only presented as a re-milling of Williamston Road.

Manager Allard stated that a portion of the project is re-milling, but also included other road changes.

The Mayor asked if this project will encroach on either the Schall's or Ms. McGarry's property.

Roger Marks stated that this does not encroach on either property. He added that the determination of adverse affects on the properties will be decided by SHPO.

Mayor Van Wert stated that she and Councilman Pail were in attendance at the end of the open house.

Manager Allard stated that the Schall's have been notified of all the Council meetings discussing this by personal e-mail.

Melanie Schall stated that they have received the Council agendas by e-mail. She further commented that she attempted to call to find out what this meeting was about and no one was aware. She also stated that she had residents come to her home and told her that Councilman Pratt went around a neighborhood telling people that Karen McGarry and Melanie Schall were going to cost the City the grant and he was going to retaliate against them. She stated that Council cannot use their position to threaten people.

Mr. Albright stated that his involvement in this project has been brief. He stated that this is going to affect the property owners. He commented that the Schall's and Ms. McGarry have been consulted on this issue. He is concerned that the idea of looking at options will go towards justification for the design plan. He added that in addition to the trees there are obvious water lines on this property that will be affected by this project. This will affect her business negatively.

Manager Allard stated that there are swales and ditches currently in the area. He believes that Ms. Schall was grandstanding when stating that no one knew what was going on at the special meeting. He clarified that he told Dr. Schall was that he expected the Council to reaffirm the direction the City is going in. He subsequently learned about the proposal from C2AE and talked with the Schall's before the meeting.

Councilman Pratt asked if the water service interruption issue has been addressed.

Roger Marks stated that he does not know if it's a service line at this time.

Kevin Feuka stated that it is regrettable that it has come to working through attorneys but they have slowed the process and they are looking at the options. He stated that they are looking at option and not merely justifying the alignment.

8. Council Member Comments:

Councilman Simmons questioned if a road shift would be possible in the other direction with an easement. He also questioned if there is new construction on the McGarry lot could it affect the historical designation.

Roger Marks stated they are looking into it.

Councilman Pratt asked that if there is any type of easement that it be a permanent easement not temporary. He believes Ms. McGarry should pay for the City Engineer measuring on her property per her request.

Mayor Van Wert stated that she does not believe the Council, City, or C2AE is trying to make problems for anyone. They have been following the process and are trying to be responsible in moving forward for the good of the entire community. They are all residents and taxpayers and she would encourage everyone to have a sense of understanding extending to each other. She asked Attorney Perrone if all requirements have been met with the Open Meetings Act.

Attorney Perrone stated that all Council meetings have been posted as required by the Open Meetings Act.

Mayor Van Wert stated that there should be courtesy on both sides. She stated that Ms. Schall's comments regarding Councilman Pratt is hearsay.

9. Adjournment:

Motion by **Pratt**, second by **Pail**, to adjourn. **Motion passed by voice vote.**

***Meeting Adjourned at 9:00 a.m.**

Respectfully Submitted by: _____
Holly M. Thompson, City Clerk

Michelle A. Van Wert, Mayor

Date Approved: _____