

**LOVELAND CITY COUNCIL
SPECIAL MEETING MINUTES
Tuesday, April 6, 2010**

**Call to Order &
Pledge of Allegiance**

Mayor Weisgerber called the meeting of the Loveland City Council to order at 8:01 p.m. The Pledge of Allegiance was recited.

Roll Call

Council Members Present: Mayor Robert Weisgerber, Vice Mayor David Bednar, Linda Cox, Paul Elliott, Mark Fitzgerald, Todd Osborne and Brenton Zuch.

Also Present: City Manager Thomas Carroll, Solicitor Frank Klaine, Clerk of Council Misty Cheshire, and Officer Kyle Bibelhausen.

Mayor Weisgerber attempted to clarify what City Council was considering and what City Council was not doing. He stated that sidewalk maintenance is and always has been the responsibility of the property owner, not the City. This has not changed, nor is any change to this being considered. This is the same in Loveland as it is in most cities around the country. The City is coming up with a new way to help residents with this responsibility, a voluntary assessment option. This is not in place of, but is in addition, to the current sidewalk reimbursement program that has been offered to residents since 1991. He stated that his goal was to give residents more ways to manage their sidewalk repairs and the discussion tonight would center on those details.

Mayor Weisgerber noted that City Council was not voting on whether or not residents in the Loveland Heights neighborhood will have to fix their sidewalks. While residents may have heard or read on a blog page that Council was voting on an assessment. That is not true. As announced in 2009, the City will be evaluating the required repairs of these sidewalks and all of the sidewalks within the City over a 10 year rotation. He stated that he has heard rumors that the Mayor was the one forcing the enforcement activity. That is a false statement as it is not within the Mayors power to do so.

The City Manager has sent out notices of violation. He has committed publically to work with any resident who is having difficulty meeting these requirements and he was sure this will be done. While Council Members agree on providing an additional option for the property owners, not all City Council members have agreed with the proposed new option for the assessment. Mayor Weisgerber stated that he has listened to Council's concerns with respect for their opinions and asked the City Manager and Solicitor to draft compromise legislation, which is before Council at this meeting.

Mayor Weisgerber explained that he called a special meeting last Friday, Good Friday, because he believes the residents of the Loveland Heights neighborhood and all the other neighborhoods which will go through the same process in the coming years need to have clear expectations as to what they need to do, what options are available to them, and how the City can help. He hoped that the special meeting tonight would further clarify what the City is doing. Ultimately it will be up to each of the property owners to select what option works best for them.

Mayor Weisgerber explained the options included in the proposed legislation:

1. Residents can fix the sidewalks themselves and the City will reimburse them 50% of the material cost, up to a \$3.25 per square foot. (This is 50% of the City Engineer's estimate of our contractor price, or \$6.50 per square foot.)

2. Residents can hire their own contractor to fix their sidewalks. The City will then reimburse them 50% of the cost, up to a \$3.25 per square foot. (This is 50% of the City Engineer's conservative estimate of our contractor price, or \$6.50 per square foot.)
3. Residents can have the City fix their sidewalks on their behalf. The City Engineer estimates the price will be \$6.50 per square foot or less. Once the City finishes the project on behalf of the resident, the resident can pay 75% of the City's bill, no administration costs, within 30 days.

If the resident doesn't want to pay 75% of the cost within 30 days, the City will assess them over a three year period, and will only assess 90% of the City's actual costs, no administration costs.

4. If a resident wants to have their driveway apron managed by the City and have it assessed over a three year period, they can do that for 100% of the City's cost, with no administrative costs.
5. If a resident doesn't comply with the order and basically doesn't communicate with the City at all and the City does the work as required, the City will assess the full cost plus 10% of the cost of repairs to cover administrative expenses.

Mayor Weisgerber stated that the City was trying to create a new program which will make the process of sidewalk maintenance easier for our residents. Residents can have the City pay half or have the City manage the work for them and still get a cost reduction.

The proposal in front of City Council is a compromise, it's not what everyone wants, which is why there will be more debate during the meeting. He urged all members of City Council to work quickly and decisively to clarify the benefits for the residents and what their options are.

Mr. Carroll stated that the violation letter that was mailed on March 15th articulated a completion date of June 11th. If Council passes legislation tonight a new letter will be sent to residents within the next few days, which will set a new deadline for completing the sidewalk repairs. That date will be July 9th. If residents want to avail themselves from the City managed option, they can let the City know by April 30th. Mr. Carroll noted that the City Engineer's estimate is \$6.50 per square foot. The City will be bidding to hire our own contractor and should have a definitive price by May 5th.

Open Forum

Gary Stouder, 1105 Sunrise Drive, stated that he has attended all of the meetings pertaining to the sidewalk repairs in the Heights and believed that Council Members have given great thought to the ordinance. It has been mentioned throughout the proceedings that everyone's options have been discussed. Mr. Stouder applauded the Mayor for working hard on a compromise. He didn't foresee a problem with the language of the final ordinance. Mr. Stouder also noted that he was attendance at the Heights neighborhood meeting where there was discussion about the conditions of the sidewalks and the need for their repair. Mr. Stouder noted that he walked the Stoneybrook Subdivision and their sidewalks are also in need of repair. He believed that everyone knows the sidewalks need to be repaired. The only problem he continues to hear from the residents relates to time. He requested that Council extend the deadline for completion of the first phase until 2010, with the goal of having both projects completed by next year. When the sidewalk repair issue was brought to the City's attention, the repairs did

not need to be made hastily to resolve or fix a problem that has existed for many years. If the first phase was extended this would eliminate any problems that could arise. Mr. Stouder believed that his suggestions should enable a contractor to complete the two projects in a timely manner and also maintain the City's 10-year schedule.

Samantha Smith, 416 Navaho Drive, stated that she has lived in Loveland for 36 years and was familiar with the sidewalk repairs. She asked the Mayor to clarify the \$3.25 per square foot reimbursement. She was concerned that many residents could not afford to get the repairs done as quickly as the City is proposing. Mrs. Smith asked how a resident could agree to let the City perform the work without knowing if the work could be done cheaper by a contractor. She asked if the assessment would raise their property taxes. She stated that her sidewalk was in bad repair when she purchased the house four years ago and didn't realize she was also buying a sidewalk. She proposed the sidewalks be removed and replaced with sod. She asked why the City couldn't provide the residents a 50% reimbursement if assessed rather than the 90% proposed in the ordinance. She stated that if the resident had more time to complete the project they would have more time to save the money needed to make the repairs. Mrs. Smith stated that she received an estimate for \$1,600 and could not afford to have the work done, giving her one option - let the City manage the project without knowing how much the City would be charging her. She asked Council to begin this project in a wealthier neighborhood. Mrs. Smith stated that this project was putting a financial strain on everyone. She said the letters were confusing and the article in the Loveland Herald last week written by Paul Elliott about the sidewalk assessment was confusing and difficult to understand.

Mayor Weisgerber stated that if Council doesn't pass the proposed legislation the existing Code only offers the 50% reimbursement program. The new legislation would expand the program to add an assessment option to spread the payments out. If a resident gets a quote of \$5 per square foot the resident would be eligible for a \$2.50 per square foot reimbursement. If the resident receives a quote of \$7 per square foot the resident would receive a reimbursement up to \$3.25 per square foot. Mayor Weisgerber stated that the City has conservatively estimated the cost to be \$6.50 per square foot but anticipated that the bid will generate a lower cost.

Mayor Weisgerber stated that if a resident pays for the repairs the cost will not raise their property taxes. If a resident elects to be assessed the amount will be assessed against the property for a three year period. For example if a resident has a \$600 estimate, 50% of the bill would be \$300. If a resident wanted to be assessed, 90% of the \$600 would be assessed over three years would be a little less than \$200 each year. If a resident has an escrow account that \$200 figure would be divided into 12 payments equaling about \$16 per month over a three year time period.

Mayor Weisgerber informed Mrs. Smith that all property owners are responsible for the property all the way to the street, including the sidewalks, the curb lawn, and vegetation.

Mr. Carroll stated that under the City managed option, Mrs. Smith's cost to replace six squares of sidewalk would be \$780 verses the \$1,600 price from the private contractor. When the work is complete, the City would then send a bill to Mrs. Smith for \$780 and at that time Mrs. Smith can elect to pay the bill within 30 days the amount due would be 75% of the \$780. If Mrs. Smith was unable to pay the bill 90% of the cost could be placed on her taxes which would equal about \$233 a

year for three years or \$20 per month for three years. He stated that the cheapest way to complete the project is to do it on your own and receive a 50% reimbursement on the material costs.

Becky Ladd, 415 Navaho Drive, stated that she was shocked to find out the sidewalks were her responsibility. She stated that she was concerned about the cost of the repairs and requested the City do more to let homeowners know they are responsible for their sidewalks.

Dwayne Smith, 416 Navaho Drive, said that it was a bad time to do this project. He believed that Council should have gotten quotes from a contractor prior to implementing the project. If this had been done homeowners would have a better idea of how much the project would cost if the City managed the repairs. He asked who would be responsible for the repairs to the turf next to the sidewalks. Mr. Smith stated that several years ago the City planted trees in the Heights. Those trees are pushing the sidewalk and driveways up and now the homeowner is responsible for the repairs. He said that the residents in the Heights don't have the money to repair sidewalks. If a homeowner decides to make the repairs on their own, the homeowner is required to get the grade and concrete inspected and if the concrete fails it will have to be removed and redone. Mr. Smith asked Council to delay the project for another year. He requested the City install signs in the Heights to reduce the speed of cars through the neighborhood which would improve safety for the children. He said the safety of the roadway is more important than the repair of the sidewalks because no one uses the sidewalks.

Reports, Memorandums, and Communications

Mayor Weisgerber announced that there was no new City Manager reports, memorandums, or communications provided to City Council.

Old Business

Ordinance 2010-17

Motion to Amend Code

Section 905.14 (a), (b), (c),
(e), (f) and (g)

Mr. Osborne introduced for second reading an ordinance amending codified ordinance Sections 905.14(a), (b), (c), (e), (f) and (g), of the Loveland Code of Ordinances governing the City's sidewalk, carriage walk and driveway apron maintenance.

Mr. Osborne moved to accept the amendments in the in the red-lined version of the ordinance provided to City Council which reflects the amendments made on April 2, 2010; seconded by Mr. Zuch. Roll Call: Cox, Yes; Elliott, Yes; Fitzgerald, Yes; Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes.

Mrs. Cox stated that at the April 2nd meeting she asked Council to consider reducing the 75% reimbursement amount referenced in Section 7 (g)(1)(A).

Mrs. Cox moved to amend Section 7 (g)(1)(A) to read as follows: ~~75%~~ 50% of the City's cost to repair if the resident pays said bill within 30 days from date of such bill and no City administrative costs shall be included, seconded by Mr. Fitzgerald.

Mr. Zuch asked staff to explain how this reduction would impact the budget. Mr. Carroll stated that in 2010 the City would be looking at a \$30,000 increase to the sidewalk reimbursement program and Council would need to budget an additional \$30,000 a year for several years as the sidewalk program continues to other areas of the City.

Vice Mayor Bednar asked Mr. Carroll to explain how this reduction would impact the City if notes are issued for the program. Mr. Carroll stated that if notes are issued, the interest rates were likely to rise over time and the City would pay a one to two percent carrying cost for the notes each year.

Mr. Elliott asked if there would be a carrying cost if the resident paid the bill within 30 days. Mayor Weisgerber stated there was no administrative cost in that scenario. Mr. Elliott stated that he supported the proposed amendment.

Prior to the meeting, Mrs. Cox stated that she had requested that the Acting Finance Director provide Council with funding options should the reimbursement referenced in Section 7 (g)(1)(A) be reduced from 75% to 50%.

Mr. Carroll stated that he and the Acting Finance Director were in agreement that the overall cost to complete the work in the Heights in 2010 is \$110,000. If every resident participated in the 50/50 program it would cost the City \$55,000. The City would have to pay the \$55,000 from its reserves, working capital, issue one year notes, or make budget cuts. He stated that he didn't think the City was in the position to make \$55,000 in budget cuts without reducing personnel or services. He recommended one year notes be issued to handle the debt, the notes could be retired as revenue is received from the assessments, which is the preferred option of both Mr. Steger and himself.

Mr. Elliott asked why the City would need to issue notes for Section 7 (g)(1)(A) when there would be no assessment. Mr. Carroll stated that the City would still have to come up with \$55,000 to pay the City's portion of the 50%. Mr. Elliott stated that the City would have to come up with the same amount if residents elected to participate in the 50/50 program.

Mr. Fitzgerald referenced Mrs. Smith's situation and stated that if Mrs. Smith paid \$1,600 to have her sidewalks repaired under the current ordinance the City would be obligated to reimburse her \$133 per sidewalk square. If the City can competitively bid the project at a net cost of \$133 per square foot or cut the \$780 bill in half why would the City not want to rush out and match her portion, which would in turn save the City money. Mr. Fitzgerald stated that if everyone rushes to the City's doors to participate in the 50/50 program the City already has a liability. Mr. Carroll stated that this scenario supported the City's need to place a cap on the City's liability, which the proposed legislation would do.

Mr. Elliott noted the funds are generated by the taxpayers. Therefore, any money that the City has was the taxpayer's in the beginning. He stated that the City's program, that shares the taxpayers money back made sense to him. Mayor Weisgerber pointed out that the funds received by the City are collective from the entire community not just one neighborhood.

Mr. Osborne stated that he was a taxpayer of the City and a resident of the Heights. The Finance Committee determines how the taxpayer's money is budgeted. He stated that he would not support the amendment to reduce the 75% reimbursement to 50%.

Mayor Weisgerber stated that the purpose of the graduated system of 75% and 90% reimbursements was driven by the concept of adding the assessment. The idea was to share the burden of the work that has to be done versus the City having to do all the contracting and managing. He noted that there would be some level of administrative cost for the City to bear to get the contract work done. The administrative cost is predominantly buried in the City Engineer's responsibilities. He stated that the numbers will hold true if the City is able to get a contractor to provide the City with a cheaper rate than an individual can get. He stated that he didn't want to put the burden on the City to manage all of the projects.

Mr. Fitzgerald asked the City Manger to explain how he arrived at a \$30,000 increase to the sidewalk reimbursement program should the proposed amendment be passed. Mr. Carroll estimated that the project could cost between \$110,000 and \$120,000. He divided \$120,000 by four, which is \$30,000. If every resident used subsection (A) as drafted today the resident would pay the City 75% of \$120,000 which equals \$90,000. If every resident used the 50/50 program the residents would pay the City about \$60,000 a year.

Mr. Zuch asked if this project would be cumbersome to staff or would more staffing be needed. Mr. Carroll stated that staff has expressed concerns about workload but he believed the project could be fit in and would continue on an annual basis.

Mr. Carroll stated that sidewalks are always the property owner's responsibility. The City has offered the reimbursement program for many years but it has not been overly utilized. This information is published every year in the City's newsletters. Mr. Carroll was concerned that if the City assumed a greater cost share than the resident the City will incentivize residents to not do what they are responsible to do, maintain sidewalks. He was also concerned about the fiscal impact to the City.

Mr. Zuch pointed out the majority of the ordinance changes were submitted by Mrs. Cox. He asked if she would be recommending any other changes to the ordinances. Mrs. Cox said she spoke with Mr. Klaine after the last meeting about clarifying which section of the Ohio Revised Code contained the Ohio Rules of Civil Procedure. She didn't see that as a big deal and didn't plan to bring it up during this meeting. Mr. Klaine stated that the Civil Procedure IV was verbatim for (A)(B) and (C).

Mr. Elliott requested that the discussion return to the motion on the table.

Mrs. Cox stated there was no reason not to offer the 50% reimbursement to residents using in Section 7 (g)(1)(A), which is offered in the 50/50 Program. She said the program may have to be slowed down to reduce costs. She supported implementing a cap on the amount that can be reimbursed.

Mayor Weisgerber stated that the City hoped to get a lower price on the bids, hopefully 10% lower, which would be a wash on the administrative costs and would be fiscally neutral. He was concerned about the added work load for staff in the years to come. If passed, the amendment will incentivize residents to have the City manage all of the programs from this day forward, that's why the 75% was recommended which would strike a balance between a City managed program versus a resident managed program.

A roll call vote was taken on the motion to amend Section 7 (g)(1)(A) to read as follows: ~~75%~~ 50% of the City's cost to repair if the resident pays said bill within 30 days from date of such bill and no City administrative costs shall be included: Elliott, Yes; Fitzgerald, Yes; Osborne, No; Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, Yes. The motion carried with a vote of 6-1.

Mr. Elliott moved to amend Section 7 (g)(1)(B) to read as follows: ~~90%~~ 75% of the City's cost to repair if the resident elects to have the City place an assessment on resident's property and so advises the City within 30 days of date of such bill and no City administrative costs shall be included, seconded by Mrs. Cox.

Mr. Zuch estimated that this would cost the City an additional \$27,500. He stated that if Council had not just spent \$30,000 on the last amendment this change

might have been more palatable. He was concerned that if Council continued to reduce the cost of assessments residents will have the City manage all the sidewalk repairs. He didn't think it was responsible to expose the tax payers to a \$90,000 hole in the budget which would result in a cut in services or projects.

Mr. Carroll stated that if the City dropped from a 90% to 75% assessment the fiscal impact to the City of Loveland would be about \$18,000, which was a different number than Mr. Zuch came up with. Mr. Carroll estimated that the total fiscal impact for fiscal year 2010, for both amendments, would be \$45,000 to \$50,000.

Taking into account the entire 10-year program, Mayor Weisgerber estimated that over the next seven to eight years the City would need to carry between \$250,000 and \$300,000 in the budget from year to year. The 90% was meant to incentivize residents to complete the repairs using the 50/50 program. If the City provides too much of a discount, residents will default to the time based option which means the entire sidewalk program falls on the City budget during the 10-year rotation. Meaning that there would be a hole in the budget for the next 13 years. He stated that would not support the proposed amendment.

Mr. Zuch wanted to know what Council planned to cut if this amendment was passed. If this amendment passed Council would be acting irresponsibly with the taxpayers' dollars.

Mrs. Cox referenced the accumulative numbers Mayor Weisgerber came up with and stated that the projects are likely to get smaller each year as the City moves to newer sections of the City. She believed that the Heights project would probably be the largest project for the City.

Mr. Osborne pointed out that the number of violations may decrease but the cost of construction may rise.

Mr. Elliott stated that by taking the personal burden off the taxpayers was a great way to help taxpayers save money. He understood Council's budgetary concerns but thought the real issue was what were the residents going to cut to be able to afford the sidewalk repairs. He stated that he could tolerate 75% but would like to go lower.

Mr. Osborne stated that the City notified the residents in the Heights that this project was forthcoming and prompted them to budget for repairs in the Spring. Mr. Osborne stated that many residents have stated that they didn't know they were responsible for their sidewalks. He stated that licensed drivers in the State of Ohio are expected to know the laws that pertain to driving a vehicle. Homeowners are assumed to know that they have responsibilities. Sidewalks have always been the responsibility of the property owner. Mr. Osborne was concerned that Council would have to make cuts to the budget. He stated that it was nice that the City was coming up with this option for the residents but making the reimbursement lower would be a detriment to the City. Mr. Osborne noted that estate taxes have helped float the City over the last few years and Council couldn't depend upon people dying to help fund City projects. He said the 90% reimbursement was an equitable compromise.

Vice Mayor Bednar stated that everyone on Council is interested in making park improvements. If Council passes this amendment, Council has basically put this year's park improvement funds into sidewalks improvements. If this continues throughout the sidewalk program the City will get further behind on the park rehabilitation program. He asked Mr. Carroll if this was the first time the City has

taken a proactive approach to sidewalk maintenance. Mr. Carroll noted that in the past the sidewalk program has been on a complaint basis. The complaints received in the Heights neighborhood meeting led to the systematic inspection of the entire neighborhood which led to the notice of violations going out in March.

Mrs. Cox referenced Mr. Zuch's comments about being fiscally irresponsible and stated that the purpose of the amendment was to throw a number out and get discussion and input and determine the impact it would have on the City. She stated that no one wanted to be fiscally irresponsible with City or resident funds. She requested Council discuss delaying the program or combining it with another phase and how that would impact the City. She wanted to reduce the fiscal impact on the residents in the Heights.

Mr. Fitzgerald stated that there has been a lot of discussion about generalities and holes in the budget, which has highlighted the mistake the City would be making by rushing ahead too precipitously. Council had discussed different scenarios but the City does not have real market prices yet. Mr. Fitzgerald stated that Council has not factored into the equation the cost savings endeavors that have been undertaken. He said that he was pleased to read a press release last week that discussed a savings of \$140,000 in utilities. The City recently refinanced debt to save money. Mr. Fitzgerald stated that he would like to move slower on this project and run some of the hypothetical budgets through the administrative process. The worst thing the City could do is get into a situation where the City is competing between projects. He was in favor of delaying or extending the program for another year. Mr. Fitzgerald stated that Council needed to remember that they make the laws, and if the program is a massive success and people are clamoring to undertake repairs, Council may have to come back and revisit the ratios. He believed that Council and the constituents would be better served if the project was delayed.

Mr. Zuch stated if Council drops the percentage to 75% and every resident and neighborhood comes flooding City Hall, the budgetary holes could become hundreds of thousands of dollars this year. Then the City will look foolish. He thought Council had gotten off the subject of the amendment.

Mr. Zuch moved to call the question, seconded by Mr. Osborne. Roll Call: Fitzgerald, Yes; Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, No; Elliott, No. The motion carried 5-2.

A roll call vote was then taken on the motion to amend Section 7 (g)(1)(B): Osborne, No; Weisgerber, No; Zuch, No; Bednar, No; Cox, Yes; Elliott, Yes; Fitzgerald, Yes. The motion failed by a vote of 3-4.

A roll call vote was taken on the ordinance to amend codified ordinance Sections 905.14(a), (b), (c), (e), (f) and (g), of the Loveland Code of Ordinances governing the City's sidewalk, carriage walk and driveway apron maintenance. Roll Call: Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, No; Elliott, No; Fitzgerald, Yes; Osborne, Yes. The motion carried with a vote of 5-2 adopting Ordinance 2010-17.

New Business

There were no items of new business before Council.

Adjournment

There being no further business, Vice Mayor Bednar moved to adjourn the meeting, seconded by Mr. Osborne. Roll Call: Zuch, Yes; Bednar, Yes; Cox, Yes; Elliott, No; Fitzgerald, No; Osborne, Yes; Weisgerber, Yes. The motion carried 5-2. Mayor Weisgerber declared the meeting adjourned at 9:29 p.m.



Robert Weisgerber

Robert Weisgerber, Mayor

Misty Cheshire

Misty Cheshire, Clerk of Council