MINUTES
City Council Public Works & Utilities Committee

Monday, July 1, 2024 – 3:30 PM
City Council Chambers

Members Present:	Mac Morrow, Chair, Council Member Lauren Wise, Vice-Chair, Council Member Owen Carson, Citizen Member Mayor Maureen Copelof, Ex-Officio
Staff Present:	Wilson Hooper, City Manager Wesley Shook, Acting Public Works Director Dennis Richardson, Water Treatment Plant Supervisor Emory Owen, Wastewater Treatment Plant Supervisor Aaron Winans, WWTP Staff Alex Shepherd, Assistant to the City Manager Denise Hodsdon, City Clerk Aaron Bland, Assistant Planning Director
Guests:	Daniel Trusler, Tracie Trusler, Harvey Sankey

A. Welcome and Call to Order

Committee Chair Mac Morrow called the meeting to order at 3:33 pm.

B. Certification of Quorum

Assistant to the City Manager Alex Shepherd certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Wise, seconded by Mr. Carson to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes

1. June 5, 2024

Motion by Mr. Carson, seconded by Mr. Wise to approve the minutes of the June 5, 2024 meeting as presented. The motion carried unanimously.

E. **In Use Right of Way Closure Policy**

Mr. Hooper said this policy stems from a request we received from a property owner in Bracken Preserve, which previously went before the Parks, Trails, & Recreation Committee. He explained that what we have provided to the committee is the petition to close in-use streets and alleyways, following closely what is required by state law. However, it primarily deals with abandoned alleys and rights of way that are not in use. There is a lack of clarity on what to do when we receive petitions to close in-use rights of way, so I propose that we add some guidelines. The first question is whether the committee is even willing to entertain requests to close in-use rights of way.

Mr. Carson asked if Mr. Hooper had ever received a request to close an in-use right of way in his career.

Mr. Hooper said yes, the three experiences that I have had have all been inside a downtown grid that were underused but open. In each case, the City came to a compromise with the requester, allowing them to keep the streets open to emergency vehicles but blocking them to normal traffic. However, they did require the petitioner to cover all costs.

Mr. Carson mentioned that it sounds like they never exactly closed access entirely.

Mr. Hooper said I have included a couple of provisions in the policy. On page 8, it tries to establish conditions under which we would consider closing an in-use right of way. It reads that if the right of way in question is in use by vehicles, pedestrians, or utilities which, by their size and complexity, cannot be maintained by the City with an easement alone, the City reserves the right to require the petitioner to, at his or her cost, relocate the right of way and relevant infrastructure. The relocation and realignment shall be built to a similar or better standard than the existing infrastructure and must not materially affect the functionality of the infrastructure as determined by the City Manager. The process for the petitioner to complete is included in the document as well.

Mr. Carson said if there is not a statutory reason to reject it, then I think we should at least evaluate it. He asked where exactly we are talking about in relation to Bracken Preserve.

Mr. Wise said he's hesitant to rule something out without evaluating it as well.

Mr. Hooper said it is in Bracken Preserve near the parking lot, which is now occupied by a trail. The petitioner has asked us to convert that back into vehicle access so that the properties adjacent to the right of way are accessible to vehicles.

Mr. Carson said it seems that he wants to connect driveways to undeveloped lots.

Mr. Hooper said essentially, this policy would allow him to access those lots via a driveway, but he would have to pay to move the trail.

Mr. Morrow said the City acquired that right of way through eminent domain.

Mr. Hooper said if we granted it, it would take a piece of public infrastructure and render it inaccessible.

Mr. Wise asked what's the rule about flag lots and lots that are not accessible.

Mr. Morrow said we now allow flag lots.

Mr. Wise asked if he could build his own infrastructure on his own property.

Mr. Bland said yes, he could even build access on his neighbors' property if they both agreed to it.

Mr. Morrow said he would be reluctant to give him any right of way because that is our only connection into Bracken Preserve.

Mr. Hooper asked about general requests to close.

Mr. Morrow said they would have to prove its public benefit and that the public would not lose.

Mr. Wise asked if we could quantify the benefit of closing the right of way.

Mr. Hooper said that he did not include the ability to quantify in the proposal but said he would explore it further. He said the petitioner would receive a private benefit, but we can try to describe if there would be both a public and private benefit.

F. Unopened Right of Way Encroachment Agreement – Oak Street

Mr. Bland said some time ago, there was the abandonment of a portion of the Oak Street right of way. The Truslers would like to use a small portion of the fence to denote the end of their driveway. It is within the right of way, but there is a sewer line that runs through there. He said they would need an encroachment agreement and a hold harmless agreement but wanted to receive the blessing of this committee.

Mr. Trusler said he would like to install two pieces of split rail fence just to denote the driveway.

Mr. Bland said the hold harmless agreement would protect the City if we need to fix the sewer line.

Ms. Trusler mentioned that other people in the neighborhood said they can use the right of way.

Mr. Hooper said he would have to look into it. But I don't think a right of way means that it is intended to be accessible and passable. It just means the City owns it and can use it for our infrastructure.

At 4:06 PM, Mr. Carson moved, seconded by Mr. Wise, to recommend the approval of the encroachment and hold harmless agreement for the Truslers' property on Oak Street. The motion passed unanimously.

Mayor Copelof said she thought we were going to conduct an analysis of rights of way in relation to the trail.

Mr. Bland said he presented the list and Council did not inform him to do anything with the list.

Mayor Copelof said it was to help identify and protect the City's right of way to help connect the trails together.

G. Discussion of Special Order of Consent

Mr. Hooper said there hasn't been much of an update on this. He mentioned that Mr. Fuller from Summit Engineering has agreed to consult with us. Also, Transylvania County has funds left over from one of their utility projects that they might be willing to share with us.

Mr. Morrow asked if we will receive a closeout report on the Gallimore Project.

Mr. Hooper said yes.

H. Public Comment

Mr. Sankey asked if there is an agreement with the engineers working on the wastewater project that City Council passed.

Mr. Hooper provided Mr. Sankey with a copy of the agreement.

Ms. Hodsdon said she will be taking minutes in the future as Mr. Shepherd will be leaving the City for another opportunity.

Mr. Morrow asked for an update on the septic tank hauler project at the Wastewater Plant.

Mr. Winans said they need to finalize the electrical work and integrate the flow meter. They are also looking to get an extension from the State for peracetic acid.

Mr. Hooper said he signed the KCI Master Services Agreement and is waiting for them to send him the Statement of Work so he can sign that as well.

I. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, August 7, 2024 at 3:30 p.m.

J. Adjourn

There being no further business, the meeting was adjourned at 4:37 p.m.

Minutes Approved: August 7, 2024

X Mac Morrow

Mac Morrow
Chair, Council Member

X Denise Hodsdon

Denise Hodsdon
City Clerk