

MINUTES
INFRASTRUCTURE REVIEW ADVISORY BOARD
Water Purification Plant
March 7, 2012 8:30 a.m.

Members and Alternates Present

Mark Cotter, Chad Huwe, Mike Cooper, Steve VanBuskirk, Preston Mettler, Myron Adam, Tim Galbraith and Bill Kemmis

Members and Alternates Absent

Jeff Schmitt, Matt Carlson, Scott Hofer, Steve Brockmueller and Mark Vellinga

Others Present

Jeff DesLauriers, Cynthia Monnin, Kurt Peppel, Andy Berg, Albert Schmidt, Eric Willadsen, Ray Pierson, Clayton Jamison, Chuck Point, Paul Fick, Mark Wahlstrom Joel Ingle, Todd Anawski, Kim Buell

Approval of Minutes of Last Meeting

A motion was made by Mike Cooper to approve the February 1, 2012 meeting minutes; the motion was seconded by Mark Cotter. Roll call: Yeses- Cotter, Cooper, VanBuskirk, Adam, Galbraith-5. Noes, none.

Business

a. Subdivision compliance update

Chad Huwe, City of Sioux Falls, introduced Brett Lovrien, with Cadwell Sanford Deibert & Garry LLP, and Mark Wahlstrom, with First Dakota Title. During the week of February 13, 2012, the City Of Sioux Falls filed a *Notice of Claim of Interest* on lots in subdivisions out of compliance with their assurance agreements. The notices were filed in Minnehaha and Lincoln counties. In addition, owners of the lots were notified of the filing by a letter. An example of the letter and the notice were handed out. The notice states the potential purchasers of the property is subject to potential assessments by the City for the cost of public improvements that have yet to be completed.

Questions that were asked:

1. How many properties were filed on? Chad stated 1,008 properties.
2. Were these total developed lots? Chad stated the notices were filed on lots where a building permit had not been issued. If a building permit had been issued to the lot, a notice was not filed.
3. Did the developer receive the letter? Chad stated the owner of the property received the letter. It could be a developer, home builder, or an individual.
4. If a house was already built on the lot, did the owner receive a letter? Chad stated no. In this case, a building permit had been issued, so a notice was not filed.
5. How many lots out of compliance were not filed on? Chad stated approximately 500. Some attendees stated that these lots should have had the notices filed to them also.
6. Have you received feedback from the property owners? Mark Wahlstrom stated they have not had any feedback from potential buyers. However, they have received questions from current lot owners who received a letter. They wanted to know who is going to pay the assessment.
7. What is the banking industry's position? We have not received any feedback.
8. Will the notice be listed as an exemption on the title? Yes.

9. Will the City provide a cost estimate to complete the improvements? Chad stated the cost of the improvements could range from \$1500 to \$3000, depending on the condition of the bottom lift of asphalt, the size of the lot, etc.
10. Do any of the properties have other improvements needed in addition to the top lift of asphalt? Yes. The improvements needed range from the top lift of asphalt to curb and gutter and both lifts of asphalt (only the utilities are installed).
11. Is the City taking adequate steps on the assurance agreement? The assurance agreement is a contract between the City of Sioux Falls and the developer. Because this contract has been breached, the City is evaluating the options to take against the developer. In addition, the assurance agreement needs to be strengthened. This will be discussed in future meetings.
12. Is there a concern for a potential buyer of one of the properties? The potential buyer will be informed of the potential assessment at the time of closing.
13. If a developer completes the improvements, will the notice be removed from the property? Yes.
14. Why are the people on the assurance agreement not being sued? The assurance agreement is a contract between the City of Sioux Falls and the developer. Because this contract has been breached, the City is evaluating the options to take against the developer. In addition, the assurance agreement needs to be strengthened. This will be discussed in future meetings.
15. Will the City test the strength of the assurance agreement in court? That is the City's intention.

If the City has to complete the improvements, there are certain steps that must take place and include taking a resolution of necessity to the City Council, notifying affected property owners, the improvements being completed by the City, and taking a resolution of assessment to the City Council.

Mark Cotter, City of Sioux Falls, wants to reconvene a working committee to discuss the next steps. He would like to have the first meeting within the next 2 weeks.

b. Sump pump collection system update

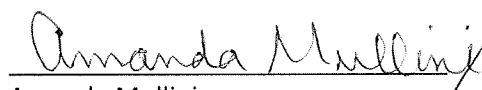
A list of current exemptions to sump pump collection system was handed out. Andy Berg, City of Sioux Falls, discussed the exemptions. He also stated that City records indicate that between 2005 through 2010, 10% of lots that had access to a sump pump collection system connected. In 2011, 19 out of 299 lots connected to the system. The group had a spirited discussion about the exemptions. Exemption 1 has been approved 3 times. Exemption 4 has never been used.

Board Action

Motion made by Mike Cooper to amend the sump pump collection system exemptions by deleting exemption 1 and adding exemption 5; the motion was seconded by Myron Adam; Roll call: Yeses- Cotter, Cooper, VanBuskirk, Adam, Galbraith-5. Noes, none.

Adjournment

The next IRAB meeting is set for April 4, at 8:30 a.m., at the Water Purification Plant. A motion was made by Chad Huwe for adjournment at 10:00 a.m.; the motion was seconded by Steve VanBuskirk. Roll call: Yeses- Cotter, Cooper, VanBuskirk, Adam, Galbraith-5. Noes, none.

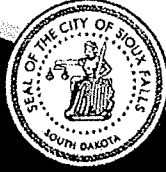


Amanda Mullinix
Secretary



Chad Huwe
City Engineer

City of Sioux Falls



Providing a Better Quality of Life for You!

Administration

224 West Ninth Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8600 F: 367-4605

February 14, 2012

Engineering/Real Estate

224 West Ninth Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8801 F: 367-4310

Environmental

1203 North Western Avenue
Sioux Falls, SD 57104-1201
T: 605-367-8276 F: 367-4886

Fleet Management

1000 East Chambers Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8240 F: 367-8239

GIS

132 North Dakota Avenue
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8651 F: 367-8113

Household Hazardous Waste Facility/Sustainability

1015 East Chambers Street
Sioux Falls, SD 57104-7200
T: 605-367-8695 F: 367-4993

Landfill

224 West Ninth Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8162 F: 367-8167

Light

2000 North Minnesota Avenue
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-373-6979 F: 373-6974

Street

1000 East Chambers Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8255 F: 367-7010

Utility Billing

1201 North Western Avenue
P.O. Box 7401
Sioux Falls, SD 57117-7401
T: 605-367-8131 F: 367-7341

Utility Maintenance

668 West Algonquin Street
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-367-8810 F: 367-7883

Water Purification

2100 North Minnesota Avenue
P.O. Box 7402
Sioux Falls, SD 57117-7402
T: 605-373-6940 F: 373-6941

Water Reclamation

4500 North Sycamore Avenue
Sioux Falls, SD 57104-9612
T: 605-367-8188 F: 367-8484

Dear Owner:

This letter is intended as formal notice that the City of Sioux Falls ("City") will require certain public improvements be completed upon and/or adjacent to (hereinafter the "Property"). These are being required pursuant to an Assurance Agreement with a prior developer/owner of the Property and pursuant to South Dakota law. You are hereby advised that the City has filed a Notice of Claim of Interest relative to the Property to put prospective purchasers on notice of a potential assessment.

A summary of the work that remains to be done includes: installation of utilities and/or street construction.

You are also notified that any sale or transfer of the Property should only be made after providing the prospective owner with notice of this potential assessment. If the City elects to complete the improvements on its own and/or through assessment, payment for said improvements and other legally allowable expenses, will remain as an assessment against the Property, or parts thereof, until paid or until agreement is otherwise reached relative to the same.

Please contact this office at 367-8601 or kpeppel@siouxfalls.org if you have any questions.

Sincerely,


Kurt Peppel, PE

cc: Mark Cotter, Public Works Director
David Pfeifle, City Attorney
Chad Huwe, City Engineer
Shannon VerHey, Assistant City Engineer

*This document prepared by:
and after recording return to:*
Kurt A. Peppel, PE
City of Sioux Falls Engineering Division
224 W 9th Street, PO Box 7402
Sioux Falls, South Dakota 57117-7402
Telephone: (605) 367-8601

NOTICE OF CLAIM OF INTEREST

The undersigned, pursuant to SDCL 43-30-5 makes the following Notice of Claim of Interest ("Interest") relative to the property legally described as follows:

Insert Legal description

Said Interest is based upon the interest of the City of Sioux Falls, a municipality chartered under the Constitution of South Dakota ("City") and its statutory and contractual rights and requirement that certain public improvements be completed upon or adjacent to the Property. All potential purchasers of this Property are hereby put on notice of the same and that said Property may be transferred, however, the same remains subject to potential assessment by the City for the cost of public improvements that have yet to be completed, and such other expenses as are allowed at law.

Dated this 15th day of February, 2012. City of Sioux Falls, South Dakota

By: Chad J. Huwe
Its: City Engineer

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF MINNEHAHA)

On this 15th day of February, 2012, before me, the undersigned officer, personally appeared Chad J. Huwe as City Engineer known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he, as such Officer, has the authority to execute and executed this document for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public - South Dakota
My Commission Expires: _____