



WHEATON CITY COUNCIL PUBLIC HEARING MINUTES

MAYOR PHILIP J. SUESS

COUNCILMAN MICHAEL BARBIER | COUNCILWOMAN ERICA BRAY-PARKER | COUNCILMAN SCOTT BROWN

COUNCILWOMAN SUZANNE FITCH | COUNCILWOMAN LYNN ROBBINS | COUNCILMAN SCOTT WELLER

WHEATON CITY HALL, COUNCIL CHAMBERS, 303 W WESLEY STREET, WHEATON, ILLINOIS 60187

Monday, April 24, 2023

I. Call to Order and Roll Call

The public hearing of the Wheaton City Council was called to order at 6:59 p.m. by Mayor Suess. The public hearing was held in the Council Chambers, Wheaton City Hall, 303 W. Wesley Street, Wheaton, Illinois. Upon roll call, the following were:

Physically Present: Mayor Suess
Councilman Barbier
Councilwoman Bray-Parker
Councilman Brown
Councilman Weller

Present Electronically: Councilwoman Robbins

Absent: Councilwoman Fitch

City Staff Present: Michael Dzugan, City Manager
John Duguay, Assistant City Manager
Joseph Tebrugge, Director of Engineering
Dawn Didier, City Attorney
Halie Cardinal, Public Relations Coordinator

II. Public Hearing – Request to Consider Recapture of Costs for Public Improvements - Summit Street Subdivision

a. Presentation

Craig Henninger, the applicant, stated that the proposal is for a recapture agreement for the subdivision built on Summit Street, which was completed in 2022. He stated that his organization turned an undeveloped street spanning Harwarden Avenue to Avery Avenue into one with public improvements related to street, sewer, and water work, sidewalks, and beautification. He stated that his organization built five homes on the east side and have since sold all the properties.

Mr. Henninger stated the recapture agreement is for the two other properties that have the ability to use the public facilities the developer put in if they apply for a permit to build a home and connect to the public utilities.

In response to a question from Councilman Barbier, Mr. Henninger stated that Calc Holdings LLC executed the project as effectively as possible. The amount of the recapture is related to the cost overruns being higher than anticipated from the project's original financials and budget. The overruns are due to performing work that was not a part of the original plan such as replacing the soil, work on part of Harwarden Avenue, and more. Henninger stated he became aware of the

option for a recapture agreement while this project was being done, and he applied for the recapture to recover some of the additional expenses used to improve the area.

In response to a question from Mayor Suess, Mr. Henninger stated that Calc Holdings LLC factors in performing public improvements into the costs of the project as a whole. However, there was unexpected, required work including replacing and connecting City sewer per City Code as the project progressed, which increased the expenses. Mr. Henninger stated that the developer did not lose any money on this project, but the additional work performed as required by the City impacted the project's profitability.

In response to a question from Mayor Suess, Director of Engineering Tebrugge stated that prior to the project there were no water mains, sanitary mains, or sewer mains on Summit between Harwarden and Avery, and the former street was a dead-end street that extended about 1 ½ properties.

In response to questions from Councilwoman Bray-Parker and Mayor Suess, Director of Engineering Tebrugge stated the 216 Summit property connects to City facilities on Avery using long private service lines. The 216 Summit property is not being considered for recapture since it already had City facilities. The only properties that are considered to be benefitting from this project are ones that did not have access or connections to city facilities prior, which include a vacant lot at 214 Summit and the back of 203 N. Blanchard if it should ever subdivide.

In response to a question from Councilwoman Bray-Parker, Director of Engineering Tebrugge stated that the recapture amount was calculated based on receipts the developer was required to submit for all of the costs that went into the subdivision. Director of Engineering Tebrugge stated he removed approximately \$130,000 of the costs submitted, as he deemed those expenses as not a part of public improvements. The calculated amount for the recapture is the cost of benefit per linear foot multiplied by the width of the frontage of the two properties.

In response to a question by Councilwoman Robbins, City Manager Dzugan confirmed that the recapture agreement would only apply to 203 N. Blanchard if the property was subdivided.

b. Public Comment

Matthew McNear, 203 N. Blanchard St., expressed concern over the developer seeking a recapture agreement. In response to Mr. McNear's question, Director of Engineering Tebrugge stated the City received the recapture application on March 10. Mr. McNear expressed concern that the subject property owners have little recourse in this process. He stated that this recapture would place a lien and restrictive covenant on his property with a potential cost of \$45,000 to him as the property owner. He stated that a potential buyer of his property may not want to build a home there due to this liability. He stated that the City Council approving this recapture would invite litigation, and that he previously communicated with the applicant proposing a donation to community groups as part of a settlement agreement instead of a recapture agreement.

Edward Griffin, 214 N. Summit St., stated that he is negatively impacted by the subdivision improvement. He stated his family has maintained the grass and removed snow on nearby properties that lack City services and has not sought any assistance from the City. He expressed concern that if his family sells the property, he would have to pay the recapture agreement, yet he has not received benefits from the developer's improvements. He expressed concerns about the

placement of the new sidewalk adjacent to his property, and stated he would like the City to consider adding signage for drivers to watch for children playing.

Eleanor McNear, 203 N. Blanchard St., stated she previously experienced issues with the placement of group homes in her previous home on Wood Street. Since moving to 203 N. Blanchard, she stated that, in approximately 2017, the applicant expressed an interest in purchasing the backlot of her property to reduce his project expenses, and she is not interested in selling the property. She stated that the potential \$45,000 lien on her property, upon the approval of the recapture, may deter buyers. She stated that she has not received benefits from the subdivision improvement.

Katarina Karac, an attorney representing the Griffin family, stated that her client has owned the property for over 70 years, has no plans to develop on the parcel in question, and has not had a say in the subdivision project nor which contractors were retained for the public improvements. She reviewed the applicant's submitted materials outlining the expenses associated with the project and requested itemized receipts and invoices to further understand the financials. She expressed concern with the 20-year term of the agreement and stated improvements would likely have been made by the City within that timeframe without this project. She also expressed concern with the agreement's 9% annual interest rate and the pressure it puts on the subject property owners to sell.

Mr. Henninger stated that the fees are only paid if the property owners in question connect to the public services. He stated that he neither accepted nor rejected the McNears' settlement agreement, and he encouraged them to attend this public hearing.

Rita Heath-Powell stated she is a member of the Griffin family and that she is concerned that the developer is placing a lien on the property without seeking the property owner's opinion on if they were interested in contributing to a recapture agreement.

c. Council Comment

Councilman Barbier thanked Mr. Henninger for investing in Wheaton. He stated that recapture agreements have downsides that include contractual aspects of the work, timing of the project, and the necessary assumptions about future use. He stated that he would vote no on the recapture, and if it were to move forward then he would propose the term changes of 0% interest and a length of one day.

Councilwoman Bray-Parker thanked the residents and developer for attending the Public Hearing. She stated that the recapture is an unwarranted financial burden on the property owners. She stated that she would vote no on the recapture, and if it were to move forward, then she would propose no interest rate be assessed.

Councilman Brown stated the economic impact of the recapture is misplaced but the City of Wheaton is appreciative of the developer's work throughout the city. He stated that the onus of the additional expenses is between the City and the developer. He stated that the aforementioned settlement agreement of the McNears' does not apply to this situation. He stated that he would vote no on the recapture.

Councilman Weller expressed support for the recapture because it would not have direct impact on the property owners today, just potential impact in the future. He stated he believed the 20-year term is excessive and he would propose additional alleviated terms.

Councilwoman Robbins stated that the project brought enhancements to the area. However, developers experience unforeseen conditions and knowingly take risks that should be embedded in the costs of a project. She stated that she would vote no on the recapture.

Mayor Suess expressed concerns about recapture agreements because they can be a detriment to property development as they create an obligation that otherwise would not exist. He stated that the public improvements associated with this project benefitted all parties involved, but he would vote no on the recapture. He agreed with Councilman Brown's comments and thanked the developer for performing improvements throughout the City of Wheaton.

City Manager Michael Dzugan stated that given the comments by the City Council, the City of Wheaton will formally draft a resolution or ordinance for the Council's formal consideration denying the request. The item would likely appear on the May 1 City Council agenda for their vote.

III. Adjournment

Councilman Barbier moved and Councilman Weller seconded a motion to close the public hearing at 8:15 p.m.

	Roll Call Vote:
Ayes:	Councilman Barbier Councilwoman Bray-Parker Councilman Brown Mayor Suess Councilwoman Robbins Councilman Weller
Nays:	None
Absent:	Councilwoman Fitch
	<u>Motion Carried Unanimously</u>

Respectfully submitted,

Halie Cardinal