

April 18, 2017

Planning Commission
City of Jamestown, ss:

Proceedings by Authority

State of New York,
Mayor's Conference Room

The regular meeting of the Planning Commission for the City of Jamestown, New York was held on Tuesday, April 18, 2017 at 3:30 p.m.

Members Present: Joe Trusso, James N. Olson, Paul Andalora, Jeff Lehman, Tom Nelson

Members Absent: Chairman Paul Whitford, Jeff Nelson, Regina Brackman

Others Present: Bill Rice

Mr. Lehman called the meeting to order in the absence of Chairman Whitford.

SITE PLAN REVIEW FOR VETERANS MEMORIAL PARK

Mr. Lehman: The first item is the preliminary site plan review for Veterans Memorial Park improvements. All that we're looking to do today is get the approval on the short environmental assessment form so that we can forward our request for the \$100,000.00 grant that we received from the state. On the plan that you have in front of you is; the plan's been on the table pretty much all along, shows the proposed pavilion and nine parking spots; two handicap spaces along Logan Avenue, sidewalks to the pavilion and some landscaping work and the two signs that are already in, the monuments which were already put in last weekend. It's pretty straightforward. When we get to the final design of the pavilion, we'd be bringing that back.

Mr. Trusso: Where's the canon going to be?

Mr. Lehman: Where's the canon? The canon is in the first circle on the right, Joe. Closest to Logan Avenue. It's not labeled as the canon.

Mr. Trusso: I know. I've seen it up there. Usually veterans parks have artillery in there or some sort of military...

Mr. Lehman: We have a little canon. It's not much artillery. Wouldn't hold off much of a war.

Mr. Trusso: In 1776 it'd be fine. But that's a little way off. I can't quite remember that far back.

Mr. Lehman: You anticipating a war over there? Any questions? Comments?

Mr. Trusso: So far, that's been a very good, beautiful addition on that side of town. It's clean, it's beautiful, it was well planned and with a pavilion there, it's going to be even better

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yet. I was just wondering, if there's ever going to be time where they're going to have some kind of memorial with the names of all the people who served like we had years and years ago.

Mr. Lehman: We have that on the deck right now. The names of the fallen soldiers.

Mr. Trusso: Fallen.

Mr. Lehman: Yes, not all the ones that served. Again, that would be more of a question for the Veterans Committee I guess.

Mr. Trusso: Stuff like that I think should be in the Veterans Park, rather than on the promenade of the city hall. This is all they're going to do? They're not planning on other things to put up there?

Mr. Lehman: At this point, yes. I guess that would be as funding comes in or ideas come in. I like it right now. It's clean, it's simple, it's pretty. It's a nice memorial to our veterans. Anyone else? Do I have a motion to approve the short environmental form?

Mr. Trusso moved to approve the EAF, Mr. Andalora seconded.

Carried 4-0

ABANDONMENT OF OSBORN STREET BETWEEN COLFAX STREET AND SAMPSON STREET

Mr. Lehman: The second item is the abandonment of a portion of Osborn Street. It's a paper street that runs between Chambers Street and the paper street Wilton Avenue. You all have it in your packet. This is kind of an oddball paper street for the city because the one end was sold back in the sixties I believe, wasn't it Jim? Number 68 Chambers. It made it a dead-end paper street. The city's been maintaining it over the years. If you look up on the north end, there is a parcel that was already – half of the paper street was sold off because over time, the gentleman built on it.

Mr. Olson: I don't think it was ever sold off.

Mr. Lehman: Oh, he never...

Mr. Olson: No. he put the fence and a pool and a shed there. Legally, I don't believe he ever sold part of that.

Mr. Lehman: I thought we had to. That was all the way to the legal department when he had to buy that property.

Mr. Olson: Why aren't you extending it all the way to Muscarella's house?

Mr. Lehman: Those property owners didn't want the property.

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Mr. Olson: Isn't it if a majority of the property owners sign a petition, that's what you do? They're using it as their property.

Mr. Lehman: We've never forced anyone to take it.

Mr. Olson: I disagree with that because one; as you can see, the guy put a fence up there, nobody ever gave him a permit. Phil Landy, Diane George, Steve Muscarella have been using that as their backyard for years.

Mr. Lehman: I don't disagree. Again, the Atwater, I can verify or check into that to see if that one didn't go through. All we're trying to do is limit our exposure. There's been trees back there.

Mr. Olson: Why would we limit ourselves and have to go in and maintain that area and not get rid of the rest of it?

Mr. Lehman: Because we're maintaining it already. It's just limiting what we...

Mr. Rice: Have you talked to these people lately?

Mr. Lehman: Yes.

Mr. Olson: Why wouldn't Steve Muscarella want it?

Mr. Lehman: He doesn't want it. He was in the process of selling his house. He didn't want to...

Mr. Olson: I'll just tell you, if we had five people here today, I'd be voting no. But, I'm not going to vote no and throw the thing off, but from a council standpoint, I would be voting no. Because there's no reason why those individuals, who are using that property as their own backyard, should not have to pay tax on that because we've gotten rid of Wilton Avenue already...

Mr. Lehman: No we haven't.

Mr. Olson: I thought we had – we got half of Wilton Avenue.

Mr. Lehman: We got rid of half of Wilton.

Mr. Olson: Half of Wilton Avenue is gone and the rest of this; why would the city be responsible for having to maintain that? Half of which is the guys – he says it's his private backyard. It's still city property. It doesn't make sense to me.

Mr. Lehman: Again, I'll verify with Atwater.

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Mr. Olson: That doesn't make sense to me. If we had five people here, I'd be voting no, but I'm not going to stand in the way, but I disagree completely with how we're doing it.

Mr. Trusso: Well this goes to city council anyway, doesn't it?

Mr. Lehman: Yes.

Mr. Trusso: Okay. Are we responsible with anything new on the street, on that property?

Mr. Lehman: I'm sorry?

Mr. Trusso: Are we responsible – could they sue the city if anyone got hurt on that property?

Mr. Lehman: Certainly there's a liability to the city.

Mr. Trusso: Okay; we're liable for anything like that.

Mr. Lehman: All we're trying to do is minimize our liability I guess, if you want to call it that, or our responsibility by pulling that property line back and then the property owners deal with it.

Mr. Olson: So just look. Look at Phil Landy. He's going to be paying for 25' times, what, 10' maybe? Of that little thing. He doesn't even have his whole backyard. He's got this little, tiny square that's going to be attached to his property.

Mr. Lehman: No. It's not going to him. It's going to Steve Johnson wants the property. So, he would take this whole 100' x 50' area there.

Mr. Trusso: These people were all notified, weren't they? That this was going to happen?

Mr. Lehman: They were all notified. We have signatures from them that they want it, or that they don't want it.

Mr. Olson: Are they going to not use that property any longer? As their own backyard?

Mr. Lehman: Who? The Landry's?

Mr. Olson: No. George, Muscarella, Landy.

Mr. Lehman: Jim, I'm not arguing with you. I can't force them to take it. Or do you think I can force them? I don't think we can. We've never done that.

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Mr. Olson: I've never seen us not take...

Mr. Lehman: In my opinion, this is the best thing for the city because we don't have to maintain this 280' of paper street.

Mr. Trusso: They'll all be given an opportunity to buy a portion of that property?

Mr. Lehman: Yes.

Mr. Trusso: What's wrong with that?

Mr. Lehman: They did not want it.

Mr. Trusso: They don't want it?

Mr. Lehman: The folks on the north end do not want it.

Mr. Olson: The people don't want that because it's just like a house burning down next door to you and you use this whole side yard as your side yard and you never pay taxes on it. Why would you want to buy it and have to pay a tax on it when you can use it for free? That's what they've been doing for years in that area. And I've lived up in that area my whole life. I know exactly what it's been like. That's okay.

Mr. Rice: Plant trees there.

Mr. Lehman: I'm sorry.

Mr. Rice: Plant a bunch of trees there.

Mr. Olson: Yes, after Fusco cut them all down. It's okay.

Mr. Trusso: So this sale has been offered to them and they don't want to buy it.

Mr. Lehman: Correct. Some of them don't want it. Everybody in the first 280', Joe, we have people that want to take ownership. What it's doing is limiting the 350' of dead end paper street that we have there to maintain; it's shortening it is all it's doing. It's making the city's...

Mr. Trusso: How big of a space is that? Between the Fusco's and the Johnson's?

Mr. Rice: Fifty feet.

Mr. Trusso: Fifty? So, each of them will get 25' then.

Mr. Lehman: They each have rights to 25'. Fusco's taking 25', Johnsons are taking 25', Cordosi's are taking the whole 50' because number 64, what are they, I can't read it; they didn't want it, so they get the...

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- Mr. Trusso: Who doesn't want it? How many people there don't want it?
- Mr. Lehman: The issue that's at hand is the George – Diane George didn't want it; Phil Landry didn't want it and Steve Muscarella didn't want it.
- Mr. Trusso: How about the Atwaters and the Landy's? Did they want it at all?
- Mr. Lehman: I'm sorry?
- Mr. Trusso: Did the Atwater's and the Landy's or the Fusco's take care of it here. That is the only four pieces that these people don't want?
- Mr. Lehman: Yes. The upper – the northern end.
- Mr. Trusso: Sell what you want and close it down. That's all. It is city property and you're given an opportunity to own it and how much will they go for? A couple hundred bucks?
- Mr. Lehman: Get it for a dollar.
- Mr. Trusso: How much?
- Mr. Lehman: A dollar. It's an abandonment. We abandon it to them for \$1.00. That's been explained to them.
- Mr. Trusso: In that case, you've got to get tough. I can't see – for a buck.
- Mr. Lehman: How do I be tougher with them? Here's a piece of property for a dollar. They don't want it, they don't want it.
- Mr. Trusso: Jim, why would you say that they didn't want it?
- Mr. Olson: I have no idea. If you've got to pay tax on it and you can get it for free...
- Mr. Trusso: For a dollar?
- Mr. Olson: No. you're going to pay property tax on it later on and then if you can get it for free, why would you pay for it?
- Mr. Trusso: You know about property taxes. What kind of property taxes would they incur?
- Mr. Olson: Very minimal.
- Mr. Nelson: It'd be under \$40.00 because I have three parcels and one is relatively small and I pay \$40.00 a year on each of them.

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- Mr. Olson: To me, it doesn't make any sense, but that's okay.
- Mr. Lehman: Again, this ...
- Mr. Nelson: But, I understand what Jim's saying because you're giving them land, but – I wonder ...
- Mr. Lehman: Jim's not against us giving the land, I don't think.
- Mr. Olson: Well, no, but I think the other people should be forced to take the other property. That's what they should be. If you've got a majority of the property owners on that parcel – on that street, who are petitioning for that, then it should be the whole group.
- Mr. Nelson: Is that the law? Is that in the code?
- Mr. Olson: We've done that for years.
- Mr. Nelson: Is it a law or is it a past practice?
- Mr. Lehman: It twists a little bit. Because what we've always done is, you had to have 50% of the folks on the whole block and in this situation, we wouldn't have that. I mean, we might have that, but we've never forced anybody to take property. Okay? That I'm aware of.
- Mr. Olson: It just seems to me that if there's a problem in the backyard that Steve Muscarella, Diane George, Phil Landy own and we have to come in there and repair one of those trees when they've been using it as their backyards for years, doesn't make any sense.
- Mr. Lehman: Which is what we've been doing for...
- Mr. Olson: It doesn't make any sense to me.
- Mr. Lehman: I get that, but we've been – since Cordosi's bought that property – or whoever owned it before them – since the city sold this property, we've been dealing with this dead-end paper street for...
- Mr. Olson: But then again, also other parts of the area when people say I just want to buy the 50' behind me, we've said no.
- Mr. Lehman: I get that, but this is – again, we're shortening up the dead end.
- Mr. Olson: Let's just call the question.
- Mr. Trusso: The part that bothers me the most is, I don't see anyone here. They're not taking it that serious. They feel if they don't, they'll get something for nothing?

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Mr. Lehman: They've been calling me right along, asking me when this was going to the Planning Commission. They all get a vote, there's the public hearing, after the Planning Commission approved it – guys one meeting, one meeting. When the Planning Commission recommends it to the city council, then there's a public hearing. So, all the neighbors can come out and speak to the city council. At that point, the city council decides what they want to do.

Mr. Trusso: Okay. Then we should send it down to the city council. I feel we should. And give them the opportunity to speak on it. They should've been here.

Mr. Lehman: Again, they're welcome to come here, but there is a public hearing process that will come following this Monday night. If this goes through.

Mr. Rice: On this portion right here, Jim, Atwater, you think they're encroaching into this?

Mr. Lehman: Oh, they definitely are.

Mr. Olson: Yes.

Mr. Lehman: They definitely are. They actually –

Mr. Rice: How many years has that been happening?

Mr. Olson: That was built years ago. Possibly after Scott Olson owned that house. I believe the next owner, who ended up having it foreclosed on through a back foreclosure, built that, put a shed up, put that fence up and that's been there for a number of years and nothing's ever happened to him.

Mr. Lehman: But, I think when Atwater bought it, they came to the city and asked about buying this.

Mr. Olson: I don't ever remember that. Maybe it's when I wasn't here. I don't know.

Mr. Lehman: It was just a few years ago. I can pull that record. I'm sure we can – the Atwaters will take theirs.

Mr. Rice: What I'm getting at is, legally if you use a piece of property for your use over a period of time, does it automatically...

Mr. Lehman: We're getting off track here. We'll follow up on the Atwater issue. Do I have a recommendation to approve the...

Mr. Trusso: To send it to city council?

Mr. Lehman: No, the SEQR form Joe. First.

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Mr. Trusso moved to approve the SEQR, Mr. Andalora seconded.

Carried 4-0

Mr. Trusso moved to recommend the abandonment to City Council, Mr. Andalora seconded.

Carried 4-0

There being no further business, the meeting was adjourned.

James N. Olson, Director of Financial Services/City Clerk