

MINUTES
CITY OF LEWISVILLE RIGHT OF WAY TRANSFER HEARING

Wednesday, June 10, 2020

Lewisville Community Center, 3451 E 480 N, Lewisville, Idaho

Hearing was called to order by Mayor George Judd at 7:16 p.m. at the Lewisville Community Center at 3451 E 480 N, Lewisville, Idaho. Present were Mayor George Judd; Council Members C. James Ball, Linda J. Linsenmann, Brigham Briggs and Mark Williamson; City Attorney, Kristopher Meek; Clerk/Treasurer, Donetta Fife; and Officer Mike Miller from the Jefferson County Sheriff's Department and residents and visitors as listed on the attached sheet.

ROLL CALL:

- Mayor Judd -- present
- Mark Williamson -- present
- James Ball -- present
- Linda Linsenmann -- present
- Brigham Briggs -- present

PRESENTATION OF RIGHT OF WAY BOUNDARY CHANGES:

Kevin Thompson of Thompson Engineering, 215 Farnsworth Way, Rigby, Idaho, presented the information about the property to be vacated by the City of Lewisville. Due to the age of the last survey, which would have been in 1889, and the introduction of modern technology since that date, the City of Lewisville has contracted with Thompson Engineering to perform a survey of the City of Lewisville in order to determine where the center of the streets should be and where the corner stakes of lots legally are to be placed. Several pieces of land in the City have been surveyed by different companies over the years and there are some discrepancies in actual placement as the stakes to determine the necessary points have long since deteriorated. The right of way for Highway 48 and state highways is 80 feet. Lewisville Highway also has an 80-foot right of way. Highway 20 is 100 feet. The power poles are set at about 66 feet currently.

Thompson Engineering has already marked the centers of the road and have placed 3-foot metal stakes with aluminum caps in the streets. They are waiting until it is decided whether to vacate part of the right of way before they set the corner stakes. For the benefit of visualization, Thompson has placed markers and lathe on the corners that would identify where the right of way would start if changed to 66 feet (or 4 rods).

At present the right of way belonging to the City is 6 rods wide (one rod equals 16.5 feet) or 99 feet. Most cities in the area have a right of way with a width of between 60 and 66 feet. Most utilities for the city are located within the 66 feet right of way. The model for setting forth the plat of the City of Lewisville came from the Salt Lake model where wider streets were necessary. If the City is going vacate any of the right of way to private land owners, the time to do it is now while the survey is being done. In the future it would be a considerable expense to come back and move the boundaries of the right of way. If the City chooses to vacate one rod on each side of the street to the land owner adjacent to that property, it would transfer approximately 18 acres of land to the private land owners, or 1 acre per 10-acre block.

Mayor Judd reported that he had done some calculations and determined that in the future if the City of Lewisville needs wider streets the 66 feet right of way still provides adequate space for 4 lanes of traffic, a park strip, curb and gutter, a mow strip and sidewalks -- with room to spare.

QUESTIONS POSED BY RESIDENTS AND ANSWERS:

- Q. Does the City of Menan and surrounding cities have similar rights of way?
 - A. The same person who did the survey of the City of Lewisville also did the surveys for the City of Menan and Roberts. Currently they also have a 99-foot right of way.
- Q. Will the addition of land increase our taxes, and by what amount?
 - A. In a county situation, the property owner actually pays taxes to the center of the road. However, in the City of Lewisville, the City owns the right of way. Therefore the amount of property that you own will be increased. Anytime you increase land, your taxes will go up. However, it should not be a significant amount. Jefferson County is in the process of implementing a calculating tool so people can go onto their website and calculate their property tax based on the amenities that are located on that property.
- Q. Will we need to move our fences because that would be a considerable expense? And who will care for the newly transferred property?
 - A. Fences do not establish property boundaries. Moving a fence to the new line would be an individual choice. Mayor Judd indicated that if people did not choose to maintain the vacated property, the City would continue to mow it as we have done in the past in order to maintain a neat and clean appearance to the City.
- Q. How does that plat affect the incorporated area of the City?
 - A. At the time Lewisville was incorporated an area 10 rods wide was incorporated as part of the City of Lewisville in addition to the platted area. The right of way on those outside boundaries of the City are not consistent with the right of way within the City and will probably not be affected by the transfer of property. Also, we are probably not going to want vacate anything next to where the railroad runs as they have a right of way there as well.
- Q. Will the land owners receive a new property description which will include the vacated property?
 - A. We are not going to survey any individual properties. When the City vacates property, you do it by ordinance. Your deed will not reflect the addition to your ownership unless you choose to have it surveyed and a new description created at your own expense. When you sell your property, the new property description will reflect the additional land due to the addition of the vacated property.
- Q. Where will I measure my property from?
 - A. The current property line is 49 ½ feet from the center of the road (as aligned with the new markers). If we vacate the 1 rod of property, your property would measure 33 feet from the center of the road (as aligned with the new markers).
- Q. What about the big cottonwood trees? Will they now become my responsibility and liability?
 - A. The trees are considered part of the property. However, Mayor Judd is pursuing a grant to have the big trees removed as they are about 120 years old and have outlived their lifetime of 100 years. This grant can include trees on city property as well as trees on private property. The difference would be that the property owner would have the option of having trees removed from their private property or not. Many residents do not have trees on their property and if the trees are removed at city expense, these citizens will be paying large sums of money to have the trees removed from those

properties with trees on them. When the homeowner moved onto the property, they were aware that the trees were there and may or may not have known whose responsibility the trees were.

- Q. Do utility franchises go with the transferred property?
 - A. If there are utilities, like the ditch that supplies irrigation water, power lines, phone lines, etc. on your property, they are still the liability of the company that owns them. Kris mentioned that the City needs to contact Digline or before you dig and have the utilities marked so the City does not have liability if they are damaged.
- Q. Will the residents have the option of reviewing the ordinance prior to its passage?
 - A. Kris – the language in the ordinance will be fairly simple and will refer to the attached plat for placement of stakes and property to be vacated. This is done according to Idaho Code §50-301. Kris will draft the Bill and send it to Donetta to post on the website prior to the next meeting for residents to review.

Residents who commented in favor of the proposed vacating of City property:

- Orlin Lewis, Barbara Blair, Lee Hinckley, Terry Fife and Doug Walker

Residents who commented neutral on vacating of City property:

- Wade Ball

Residents who commented against the proposal:

- Dick Jones, Forest Wilson (by written e-mail which was read into the record)

COUNCIL DELIBERATION:

Since the purpose of this meeting was to gather information from the residents, no bill has been formulated at this time. However, in order for the residents to know how each Council member regards the issue after the input, each Council member and the Mayor expressed as follows:

Mark Williamson: His concern is that most of the properties within the City are not identified as they should be with fences, etc. and that it is in the best interest of all citizens to be able to properly identify where their property begins and ends. He summarized by saying "We need to do this."

James Ball: He has contacted and been contacted by several residents this past week. The comments he received were not in favor of the property being transferred. The majority were not in favor because of the issues of liability of the trees and because of the increase in property tax due to the increased amount of property. We need the survey, but I am not in favor of the property transfer.

George Judd: He is fairly new to the town and when he moved in he assumed these were his trees. A lot of people assume that the trees belonged to them but some assume it is the responsibility of the City. A lot of people don't have trees. The trees are way past their lifetime which is 100 years old and they are now at least 120 years old. He is in favor of changing the right of way to 66 feet. It will even let some people build a porch on the front of their house or make other revisions to their property. Mayor Judd also wanted to mention that the City barely missed an 80% federal funding for sewer because we were not shovel ready yet. He is hoping the government is going to do another round of aid money next year. Getting the survey done benefits our points on the grant possibility but it doesn't make a difference if it is 99 feet or 66 feet. He has been checking on grants for sidewalks as well.

Brigham Briggs: He is undecided at present. Has built new fences and it would be awful to rebuild them. However, he feels it would benefit a lot of people who would then become compliant with the zoning ordinance. There are houses and accessory buildings which are in, on or too close to the right of way. The increase in property value would probably outweigh the tax increase.

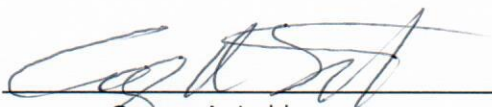
Linda Linsenmann: She was wavering but leaning in favor to change to 66 feet to help people be in compliance as many structures are not built at the required setback for the City.

Mayor Judd asked if there were any more comments. There were not.

ADJOURNMENT:

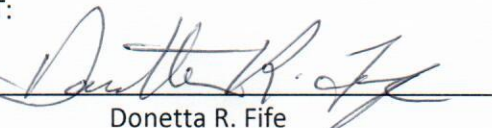
James moved that the meeting be adjourned, Brigham seconded, motion passed. Meeting was adjourned at 8:32 p.m.

Minutes approved by the City Council of the City of Lewisville on the 8th day of July, 2020.

Mayor 
George A. Judd

Date 8 July 2020

ATTEST:

Clerk 
Donetta R. Fife

Date 7-8-2020

RESIDENT SIGN IN SHEET

There will be a 3-minute time limit for those who wish to express concerns about transfer of 1 rod (16.5 feet) of property of city right of way property on each side of the road to the property owner adjacent to that property. (6-10-2020)

[illegible]