

Council met in **PUBLIC HEARING** on Monday, January 3, 2011, at 7:30 P.M. in Council Chambers with President Maurer presiding. Members present: Anderson, Avant, Judge, Lysenko, Megyes, Soyars, Suboticki, and Wagner. The purpose of the Public Hearing was to discuss the **vacation of Newell Street**.

Ms. Sheridan, Planning Director, said the Public Hearing this evening is regarding the closing of Newell Street. She said the Barberton Board of Education approached the City a couple of months ago with this request, based solely on the safety for the children. She said the proposed vacation is from Norton Avenue to Brady. She showed on a map how the buses and police and fire would access the street. She pointed out the two playgrounds on the map and she said the School Board believes that it would be in the best interest of the children for this street to be vacated. She said Planning Commission voted on this request in December. She said they voted to vacate and they would like to make that recommendation to Council.

President Maurer said the Rockwell property is on the other side of that street. He said his concern is the impact this closing could have on the viability to develop that property. Ms. Sheridan said it would be closed for access, except for police and fire and the school buses. She said Mr. Harnden and Mr. Bilinovich are here to speak more on that subject.

Mr. Judge asked where the access to Rockwell is on the map. Mr. Harnden said it is probably 75 feet from Brady. He said the School District is aware of the fact that the owners of B & C are opposed to this closing. He said one of the things he has discussed with some of the Administration and School Board Members is moving the gate from Brady, north -- past the truck entrance into the B & C Machine property. He said that way they could continue to use that truck entrance. He said the City would like the entire road vacated if it is going to be vacated so that there is not a stub-street for snow removal because all that would fall back on the school district to take care of. He said if the gate -- it is a railroad-type gate that would go up and down and the school buses and safety forces could activate it to go through, but it would keep other traffic out -- is moved north of Brady, past the entrance/employee entrance into B & C property, that might be some kind of compromise to give them access to their property without having to cut a new gate into the property. He said the School District is also agreeable to give an easement to their property -- the School District owns the frontage along Norton Avenue to the B & C property -- but that would mean money when cutting a new road. He said that is something they have put on the table. He said maybe moving the gate would be the way to solve both problems so that trucks could still get in to the B & C property and it still could be vacated.

Mr. Judge said if there is going to be a compromise or discussion about moving that gate, would that have to go back to the School Board or the Planning Commission? Ms. Sheridan said it would not have to go back to Planning Commission. Mr. Harnden said the School Board is just asking for the street to be vacated. He said the schools would still be responsible for maintaining the street from Brady to Norton Avenue.

Mr. Judge said since this could impact some future economic development, he would like to know what the Mayor and Administration's thoughts are on vacating the street or moving the gate.

Mayor Genet said, as everyone is aware, it is closed right now. He said he has met with the Bilinoviches prior to the construction of the middle school. He said they were more than cooperative as far as closing that street down for staging and they even offered their parking lot. He said there was concern about getting the trucks in around that turn on Brady and Newell. He said there was a pole removed. He said he has not heard of any problems after that point. He said that whole area is changing and to answer if it will continue to be a heavy manufacturing site in the future, he does not know of anyone with a crystal ball to answer that. He said he does not know if there was an actual traffic study done. Mr. Harnden said a traffic study was done. Mayor Genet said he obviously has not reviewed it, but he would defer to the engineers that did the traffic study. He asked Ms. Sheridan what the recommendation from the Planning Commission was on the traffic study. Ms. Sheridan said the recommendation of the Planning Commission was to vacate; they did not rule on the traffic study.

Mr. Harnden said the traffic study was just to show the increased traffic along Fourth Street and Norton Avenue. He said there was nothing significant. He said the only impact in that entire area is what currently exists on the corner of Norton Avenue and Barber Road. He said in the world of traffic people, the ability to make left-hand turns there was graded out as an "F." He said that was a current problem; it was not a problem created by any closure of any streets.

Mayor Genet asked if the Rockwell site is about forty acres. Mr. Bilinovich said it was thirty-six acres. Mayor Genet said there is a lot of potential for growth. He said he is not so sure any future development would come south of Norton Avenue. He said most of your traffic would be coming in on the north side. He said he would like to hear any concerns from Mr. Bilinovich on this proposal.

Mr. John Herman, Attorney, said he is representing the Bilinoviches and B & C Company. He said as you are aware, they are in opposition to the vacation of Newell Street. He said he would like to read a couple of paragraphs they received from a broker, CB Richard Ellis, a company currently marketing the company for the Bilinoviches. He said he talks about how the vacation of this street will impact the value of this property. It says in part: Vacating Newell Street from Norton Avenue to Brady Avenue will have an adverse impact upon my ability to market the property. It is probable that this change will result, and you realizing, a lower price for your property or increasing the amount of time it will take to close a sale. It is also possible that both of these effects will occur. One of the items in almost every bio looked at when contemplating the purchase of an industrial property is how easy it is to access the highway system from the property to be acquired. Anything that reduces road frontage or makes access to the property more difficult is most definitely a negative. Another issue to consider is the impact of having industrial traffic use the road access that will remain after Newell Street is vacated. Without Newell Street being vacated, most heavy truck traffic could access the plant by Newell Street off of Norton Avenue. Mr. Herman said the letter goes on to say that if it is vacated, they are going to have to come in off of Brady Avenue or some other street. He said the important thing to recognize is that the vacation of this street is going to de-value this property. He said it is going to reduce the tax base of this property -- taxes that are generated by this property. He said it is going to adversely impact what the City of Barberton gets from taxes from this property if it is sold for a price less than what it is currently appraised for tax purposes. He said there is one other item. He said he was a Solicitor for many years in Clinton. He said whenever a street was vacated in Clinton, half the street vacated went to the adjoining owners. He said maybe there is something different in Barberton from the Village in Clinton, but from what he is seeing here, the plans did not look like half that street was going to go to the adjoining owner, in this case, the B & C Machine Company. He said it looks as though the plans are showing City and School Board uses for their purposes for Newell Street and not for B & C. He said he thinks that is something that has to be looked at because if they own half the property, it is no longer a public street -- it is not going to be used for buses or anything else. He said he raises that issue for consideration in dealing with this matter.

President Maurer said to Mr. Keltyka, Stormwater Engineer, that he probably knows more about right-of-ways than the rest of us. He asked if the properties go to the center of the street and the rest is right-of-way? Mr. Keltyka said it depends upon the portion of the city that the city owns. He said a number of areas where the original property line went to the center of the street were turned into right-of-ways as opposed to streets for the city. He said that issue has to be researched for each individual case.

Mr. Herman said B & C and the adjoining owners may not own to the middle of the street right now, but the statute says that when a public street is vacated, it then splits off to the adjoining owners. He said that means half of it is going to go to the School Board and half is going to go to B & C. He said he does not know if that fits in with what has been presented today.

Mr. Lysenko said he was wondering if Mr. Herman's clients have evaluated how much it would cost them to create the same road access coming from Norton or Brady? Mr. Herman said at this point they have not put that cost into it. Mr. Lysenko asked if there would be some disadvantage to having it come from Norton or Brady? Mr. Herman said that it would because if trucks are going to come in, they are going to come right in to the entrance of the office building as opposed to further on down Newell Street where trucks can go in to where they could access the plant. Mr. Lysenko said he was questioning why that same access could not be created coming from

Norton. Mr. Herman said B & C does not own Norton -- a large segment was sold to the School Board a number of years ago. Mr. Lysenko said B & C does not then have access off of Norton. Mr. Herman said farther east there is, but the section near Newell Street has already been sold.

Mayor Genet asked, in the event this is not vacated, how that would impact the east part of the area with the bus parking. He asked Mr. Harnden if that part of Newell Street was not vacated, would it impact these renderings at all? Mr. Harnden said the renderings in front of you are based upon Newell Street as it currently exists. He said this request from the School Board is strictly related to safety and the traffic going up and down Newell.

Mr. Herman said it is hard to argue against safety and he is not going to come up and suggest to disregard the safety of the children. He said that would be suicide. He said what he is saying is that half that street, if vacated by the city, is no longer going to be owned by the City or by the School Board; it will be owned by B & C.

President Maurer said there have been great pains taken to lay this out where we have this big pull off for bus parking. He said he does not understand the safety concern. He said Norton Avenue is a lot busier than Newell Street; Fourth Street probably equally as much so. He said he does not know that there is a big safety enhancement by shutting this off and compromising a very large parcel that could possibly be developed for industrial use. Mr. Harnden said he is merely the messenger! He said before Newell Street was closed for construction, it was a fairly heavy cut-through for the high school students. He said there is obviously a concern there. He said he is not too sure we are concerned about *truck* traffic because when the truck traffic comes through, they would be driving slowly to make the turn into the shop. He said as far as other people cutting through and *automobile* traffic ... there are a bunch of little kids out there. President Maurer said he would not want to compromise the ability to develop this property out of a safety concern that could be resolved with enforcement. He said he is not saying this is a good idea or bad idea, but he thinks that Mr. Herman makes a very compelling argument.

Mr. Avant asked if Newell Street could be widened enough to give more lanes coming off of Norton Avenue instead of just vacating it? He said he knows there is a lot involved in the infrastructure, but was that issue ever considered? President Maurer said most studies say that the wider the street, the faster the cars tend to go. He said if you want to slow them down, you would narrow the street. He said if this is a big safety issue, widening the street would make or exacerbate a bad situation. Mr. Avant said he disagreed, if there was control and lighting.

Mr. Judge said there has been talk of compromise and having an easement off of Norton Avenue for the company and he wondered if there had been any discussions at length about that ... and, if not ... why not? He asked Mr. Herman if his clients would be opposed to sitting down and discussing that option? Mr. Herman said he is certain they would be glad to sit down and talk with the City, but he believes up to this point, nobody has approached them about any sort of compromise. He said the relationship of the Bilinovich companies over the years has been to try to reach agreements with the City whenever possible. He said that has not changed, in spite of the difficult economic times that have hit that company. He said he would be interested in knowing what happens if we are talking about vacating streets and if he is right about the ownership of the street. He said he believes this plan is in jeopardy the way it stands now; it has to go back to the drawing board. He said that is the legal argument. He said the economic argument is that it would reduce the value of a big, industrial property in the City of Barberton which generates a lot of taxes for the City.

Mr. Wagner said concerning the strip of land that runs along Norton Avenue and is now in the hands of the Board of Education, what if egress were granted by the Board of Education for that property to allow trucks to come in that parking lot at the north end of the property. Mr. Herman said we are getting into the negotiation part. He said he can not speak for them right now as to say if that is a good idea or a bad idea. He said certainly that might be something they may want to consider. He said if that is the alternative to the access, maybe that would actually increase the value of the property. He said it would make sense to him to have direct access from Norton Avenue. He said that would be even better than access off of Newell Street perhaps. He said that may be something to consider.

Mr. Avant said he knows that the property was sold to the schools, so it would behoove the schools to have some cooperation and doing as Mr. Wagner mentioned. He said he does not believe Council could vote on anything until more negotiations go on with the School Board and the owners of this property. He said we really can not vote on this. Mr. Wagner said that may be a viable solution to the problem. Mr. Herman said he is sure that would be something they would consider.

Mr. Lysenko asked if anyone knew how much the schools purchased that strip? Mr. Bilinovich said it was about one hundred fifty seven thousand dollars for 2.5 acres.

Mr. Pat Betts asked what if the end of Newell was just closed at Norton Avenue and nothing was vacated? He said give B & C the portion where they have always entered. He said we would not want to put cement blocks there, but make it something nice with plants where no one could cut through. President Maurer said that would defeat the entire purpose of having a street -- you may as well vacate it. Mr. Betts said the city or schools would still have to plow it, but then it is not vacated; it would be a dead end street. He said Mr. Harnden is right about the high school students cutting through. President Maurer said that is still an enforcement issue and he did not know if that argument would hold water either.

Mr. Megyes said for what it is worth, that is part of the Van Hyning Neighborhood. He said at a couple of our meetings they voted on this issue. He said both times the people were all for keeping this blocked off. He said they liked that the traffic flow was cut down drastically.

Mr. Avant said we need to think about economic development as much as we need anything else. He said he feels this needs to go back to the drawing board.

Mr. Wagner said another point is what does this do for traffic flow on Fourth Street? He said it has to increase it significantly. Mr. Betts said they have to redo that light. President Maurer said the Fourth Street intersection was revamped twenty years ago or so with the whole idea to smooth that out. He said that is the only north-south road between Fourth and Wooster Road all the way up the hill. He said that would have to have a profound impact on Fourth Street.

Mr. Suboticki said the only other suggestion he had would be to make Newell Street one way, going south into town. He said you would have two ways into the Downtown area rather than have everyone on Fourth Street. He said it would still create traffic on the street, but it would be one way. He said he thinks it would be safer having it one way than both ways.

President Maurer said one thing he is certain of is that this is not as cut-and-dry as people would like it to be.

President Maurer asked if there were any other questions or any discussion on the Newell Street vacation.

President Maurer asked again if there were any other questions regarding this public hearing.

There were none.

President Maurer said hearing no questions or comments, this public hearing was closed.

Adjourned 7:54 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council