

driveways. City Commission recommended approval of the access points as presented by the applicant (revision 1.18.08).

2. For the area covering the Phase II Planned Residential Development portion of Bauer Farm, the applicant shall meet with each of the utility service providers, (gas, electric, telephone and cable) to coordinate and determine appropriate locations of the underground service lines in relation to the municipal water, sanitary sewer and stormwater lines, prior to the submittal of either a Final Plat or a Final Development Plan Application covering Phase II to the Planning Commission.
3. Provision per Sheet 4, General Note No. 4 for the current owners of Bauer Farm to provide written Agreements not to Protest the Formation of a Benefit District for the widening of Overland Drive between the intersections with Folks Road and Wakarusa Drive and the widening of Folks Road between the intersections with Overland Drive and W. 6th Street.
4. Add the following note to the Preliminary Development Plan, "Additional landscape easements and additional right-of-way(s), where appropriate, will be provided on Overland Drive and Folks Road if existing right-of-ways do not provide sufficient space for road improvements as designed."
5. Add the following note to the Preliminary Development Plan, "A written agreement will be executed between the City and Bauer Farm owners to specifically identify the extent of public/private areas and maintenance responsibilities within the development, prior to the submittal of a Final Development Plan application."

Motion carried 4-1 (Commissioner Highberger voted no).

(20)

Discussion on Snow Removal Ordinance.

Jonathan Douglas, Assistant to the City Manager, presented the staff report. He said the current Sidewalk Snow Removal Ordinance required sidewalks to be clear within 24 hours at the end of a winter weather event. If they get a complaint, they inspect the property and then a notice would be mailed. If the sidewalk was still not cleared within five days of the notice, the City would forward the case to municipal court for prosecution. The ordinance provided for a \$20.00 fine for violators. The major complaints they heard were from pedestrians who did not think the ordinance resulted in sidewalks getting cleared fast enough and also from property owners who were upset when they did their part to clear the sidewalk and then City snow plows go by the street adjacent to the sidewalk and plow snow back up onto it. Some of the major

changes for City Commission consideration were outlined in the memo and included the following: First, making the enforcement staff initiated rather than complaint driven as it was now; second, adding a provision to allow the City to remove snow and assess the cost to the property owners, which some other cities do. The third was shortening the compliance periods and fourth increasing the fine amount. Another option was not to make any changes and continue to enforce the ordinance and get the word out to property owners about their responsibility to be good neighbors. He thought staff would recommend if they were to make any changes, shortening the compliance period and increasing the fine could be done without needing any more staff resources dedicated to the program. He would not want to give anyone the impression that it would get all the sidewalks cleared in town, but would give a little bit more effective tool to address some of the problem areas they experienced.

Commissioner Highberger asked if the model where the city contracted out with some private entity to remove snow in the City would acquire additional staff resources.

Brian Jimenez, Codes Enforcement Manager, said the way it would require more resources was they would have to make that additional contact with the contractor, do that administrative part of it just like the weed and grass mowing. Shortening the time period, it would require additional resources because they were going out a second time. It would be more if they wanted it to be a shorter time period than what they currently had right now. The way he saw it was if they contracted it out, they would take bids and would probably have several contractors that could provide that service to the City when there were the snow events. That would still entail the second inspection to verify that it was not in compliance. They would make that phone call and contact and after that there would be some administrative work done.

Mayor Hack called for public comment.

Bill Mitchell, Lawrence, said he had not seen all the proposed changes to the ordinance so he was speaking in general. He spoke to Commissioners in 2001 when this ordinance was first being considered. It was poorly conceived then and obviously had not improved with age.

Legislating neighborliness was generally doomed to failure but especially when such a law was without teeth. After the snow, five days after a complaint and notification was lacking any will to enforce failures assured failure. He said credit was given where due. Originally, the 24 hour period was 48 hours. He said 24 hours was still too long and five days to clear after a complaint and notification was silly. He said a fine must be meaningful. Complaint based enforcement was slow, removal of rentals or code violations was ineffective and most importantly the responsible agency must have the will to enforce. If the will was lacking, and seemed to him it was, they were finished before they started. He said they should either fix this or get it off the books. While they had snow removal on their minds, they should please consider the long standing complaint of those who had sidewalks abutting the street on only one side of the street. Over the past 40 years or so Public Works had from time to time and place to place thrown the snow to the sidewalkless side of the street, but more often than not they plow it repeatedly on the soon to be cleared sidewalks. He said to quote from his 2004 letter, it was a particularly unkind cut for the City to undo the work that conscientious residents had done and to threaten with fines if they do not clear the sidewalks of Public Works snow as well as mother nature's snow. He renewed his plea for the establishment of a City wide policy of throwing snow to the sidewalkless side of the street wherever sidewalks abut the street.

Clifford Harding, Lawrence, said while the City Commission was amending the Snow Removal Ordinance, he suggested they also put in there about no sprinklers between 6 a.m. and 8 p.m. He had gone up 6th Street many times and people were jogging and walking out in the street because the sidewalks were wet. Summer was going to be coming soon, but thought they needed to put that in the sidewalk ordinance so people could walk on sidewalks.

Hubbard Collingsworth, Lawrence, said they were supposed to be a bicycle friendly town. 19th Street was supposed to be bike friendly and had a bike lane down the right hand side. The snow removal equipment took it from the center to the shoulder which meant it closed

the bike lane off and forced the bikers to be either on the sidewalk or on the main arterial. He wondered if there was a way they could address this point.

Chuck Soules, said Tom Orzulak was the expert on this. There were a lot of these issues and would love to address everybody's issues; keep it out of their driveways, keep it off the sidewalks, keep the streets clear. They had the snow problem and had to put it somewhere. They push it to the other side where there was no sidewalk worked in some cases and sometimes it did not. Storm sewers may be on the other side and if they push it on one side and it melted, they would deal with freezing streets. If they pushed it over to the other side, they had a pile twice the size in front of everyone's driveway on that side. The neighbors were not always on the same page with where they wanted the snow to go. They knew there were several areas and Orzulak's crews tried very hard to remember when everyone was calling because they were stuck on the hills or the Police Department needs responses or there was an accident. The crew was running around trying to get the roads open and clean, but they were responding and trying to remember where to put the snow. They would love to respond to everyone's concerns if they possibly could, but with the resources and the time available, if they had a week to remove the snow they might be able to do more than this, but the community expected a better response. The crew started on call when they saw the word snow forecasted. If they did not get the snow, they were patching potholes in the middle of the night. The crew was there and was trying to do everything they could. He said if the Commission wanted to give definite guidelines they wanted to proceed with, they would obviously follow them and would do everything they possibly could that they know of.

Tom Orzulak, Public Works Streets Division Manager, said the biggest problem was they had to put the snow somewhere. The bike lane was one and 19th Street was not redesigned when it was redone and was not bigger. Some of the projects done recently like North Michigan, the street was wide enough to where they could get the bike lane open. On 19th Street if they got everything all the way up to the curb, they would get into the mailbox problem because once

they get it off the street, it would start knocking mailboxes down. Some of the areas around campus had more pedestrians and made an effort to try and get the snow on one side or the other. On a one way street it was pretty easy but on a two way street, they were taking the snow from the direction of the lane the trucks were in, and putting it against traffic. A lot of those streets it would take three people; one person to block the street off and try to control the traffic, and two trucks trying to get the snow moved over. Sometimes they could do it and sometimes they could not. He said 6th Street in some places was 90 feet wide. It took 5 trucks to plow half of 6th Street. If there were 14 intersections between Massachusetts and Iowa on 6th Street, they would have to open every one of those intersections. It was all done under traffic and there was never a time in Lawrence where people were not driving around. The trucks had to back up into traffic so it was not as easy as it looked. As much as they tried, there were still times it would get up on the sidewalk. At some point in time they go back and try to mitigate some of the problems they cause but it took them a minimum of 36 hours to clean the whole streets. A lot of the problem was it took so long to get some of the residential streets, when it stopped snowing but not when it started. A lot of people had their driveways and sidewalks cleaned, and then 24 hours later the snow plows come and people had to shovel it again.

Soules said the good news was that it was an exceptional season for snow and typically did not see this kind of snow accumulation so they did not have as many complaints. He knew everyone got a few complaints, but on the grand scheme of things he did not know it was an excessive problem.

Commissioner Chestnut asked whether there was any merit to a grid plan. He said on this street they were going to try to push it to one side. He said what it sounded like was they had a lot of mental notes in their mind about what they normally do, but really did not have anything committed to a process. He said it was reasonable to ask the question because when the public complaints come in, a lot of times it was a trade off. They could say that was a

priority choice made. He understood there were always trade offs. He asked if that was something they had ever considered.

Soules said they did have a snow plan and plowing route, but was basically priorities but going down to a specific street saying which way the snow would be pushed they had not done. It would take a tremendous effort because they would have to have neighborhood meetings on every street to figure out where they wanted that snow and he did not know how practical that may be. To get consensus from everybody was tough, even on small projects.

Commissioner Chestnut asked if the City came up with a plan based on what they know.

Soules said they could sit down and tell which ones they have attempted to keep track of.

Orzulak said they had a plan like that already written down.

Commissioner Chestnut said they had storm sewers on one side, sidewalk on the other, and had to make a priority choice. If it was vetted out to that point, he could see where they say it was on the sidewalk because they had to keep the storm sewers clean. He said maybe that was too granular and could not get to that point, but thought that would address some of the problems. They were making priority choices and if they could commit that to structure it made it easier to answer the questions.

Commissioner Amyx said Orzulak and his crew did a great job. They got calls and concerns about when the snow was left in their drives and up on the sidewalk and every time they knocked down a mailbox. It seemed like they had a policy to take care of everything. He said it seemed like when he was younger they did not do residential streets until the 5th or 6th day or when it hit three inches of snow. He remembered having rear wheel drive cars and they did not go anywhere. He thought the service was increased and did a good job providing the additional service where over the course of a 36 hour period they did every street in Lawrence to make sure the driving public was taken care of. He said if they had a problem with the sidewalk, they had a policy in place that said within 5 days after a complaint was filed that thing

had to be taken care of. He said the only way they would take care of this was if they put the snow on the sidewalk, they would have to come up with a way to have someone from the City to go out and clean it. He said they needed something to address that if the City put it on there. If they were going to go off of the complaint driven procedure, they should keep the fine the same. It seemed they had taken care of individuals who might not be able to physically take care of themselves because he did not want anyone to have a heart attack out there lifting snow, especially snow the City put on the sidewalk. If they wanted to shorten it down where they would go on complaint basis from the public and if staff saw something and could contract with someone to take care of the complaints they got, if staff needed to get the streets taken care of first, they needed to look at something like that and go on. He said they should have staff and public complaints, the fine would stay the same, shorten the time down to 24 hours, make sure they had the program in place right now for the safe winter walkways to make sure they had adequate volunteers to help with that, and address how they would contract to take care of the snow. Public Works could not go out and take care of removal of snow on sidewalks because they did not have time to do it when they were taking care of everything else.

Soules said they have received complaints about snow when the City had thrown it back on the sidewalk, but the City had not cited anyone when it was the City who had thrown the snow back on the sidewalk.

Jimenez said just like they got complaints where the driveway was blocked or crosswalk was blocked, they issued letters from their office for a sidewalk that had been covered, and the person had called him and said they cleared it and the plows covered it. City staff would tell them to disregard the notice and have worked through it. It was one of the situations where they did not have the perfect answer for it. He said a good example was on 9th Street. From Highland Drive all the way down to Emery, the sidewalk was literally where the curb started, except for the one area where it jutted in for the bus pick up. That was a very high traveled area. They had snow a week ago Sunday morning and the temperature rose pretty quickly that

morning. He went out and took pictures of that Wednesday last week after they had two fairly mild days and the area in front of the huge retaining wall was treacherous. The snow was not snow anymore but three to four inches of ice. It was not smooth, it was jagged and dangerous to walk on. There was a situation where the snow was not removed and they received complaints on it. The snow then turned to ice and was something unique because if there were sidewalks on the south side of the street that did not get any sunlight, just because it warmed up did not mean the snow was going to go away. It may mean that it may thaw a little bit, but it may freeze up at night and do the same thing over and over again. When they cleared 9th Street, he doubted there was any way to prevent that from happening because the sidewalk was right there on the curb.

Mayor Hack said it might be good to see how much it would cost to contract out for the removal of snow from sidewalks like 9th Street and 6th Street that they knew were heavily traveled. She knew they did not have the money to do it, but those were areas they heard the most about. She thought it was difficult and agreed with Commissioner Amyx that shortening the compliance period would be a good idea, but was not sure the fine increase should remain the same.

Corliss said it was very unlikely they would prosecute anyone for violating this ordinance. They had other things they would devote their resources to. They were going to send the letter, but not initiate anything other than that letter.

Todd Thompson, Lawrence, said he received a notice of violation from the City this year after cleaning his walk and having the City bury it with large chunks of ice and snow. He talked to Jimenez about it and Jimenez did a terrific job and handled it very well. Receiving a notice of violation when you have not violated the ordinance was upsetting. It was not a letter but a notice of violation. He came down tonight because the first speaker said they would get a complaint, they inspect and send a notice of violation. That was not an accurate statement. Notices of violation were sent out based on anonymous phone calls, and that was not a good

policy for City to follow and was not lawful. As they worked through this, he hoped they would adjust that. He hoped that a true letter explaining what their responsibilities were and what they were subject to if they did not comply was highly appropriate. A notice of violation set the wrong tone, especially when someone had been up at 5:30 or 6:00 in the morning cleaning your walk only to have it buried at 7:30 or 8 when the snow plow went by. He said they should get away from the notice of violation and send a letter. He was in favor of enforcement, but it should be handled in a different way than it had been historically.

Vice Mayor Dever asked how many complaints were received a year.

Jimenez said it varied, but in 2003 they received 132; 2004:250; 2005: 125; 2006 they had 5, which were carried over from 2005. In 2007, which was the month of December, they had 172 and thought they were over 200 this month alone. The more snow they had, the more complaints. A lot of the complaints were repetitive with the same locations. They did go out and inspect every complaint, and went back for re-inspection.

Vice Mayor Dever said he was not around when they wrote this code and did not know what the original intention was, but for him they had to figure out what the intent was and whether or not they needed a rule like this and if it was achieving its goal allowing people to walk on the sidewalks and be pedestrians.

Mayor Hack said as she recalled, Commissioner Highberger was on the City Commission at the time they talked about the concerns if they were going to stress walkability they had to have the ability for people to do that safely and talked about a volunteer program for people who were not able to do it themselves, they would have a group that would. That did not work as well as they hoped. It was a no win situation because if they pumped up the fine and shortened the time, she was not sure that was the way they wanted to do business.

Vice Mayor Dever said the goal was to get the sidewalk cleared and anything short of getting the sidewalk clear was not achieving the goal. He was not sure what to do except clear the sidewalks if that was what people wanted and let people know there was going to be a cost

associated with it if they did not. It seemed like a lot of administration but if the goal was to promote walkability and allow people to use the sidewalks, it was not happening if they were just sending letters and no one was complying. If they were actually achieving something, it would be good but it did not sound like that was happening. They were just getting complaints and people were getting upset by them.

Commissioner Amyx said they could not afford to do all the sidewalks in town. He did not see where they had the administrative time to assess back all the costs.

Vice Mayor Dever said they needed to take it off the books if they were not going to enforce it.

Commissioner Amyx said they needed to come up with a way in a complaint driven world whether it be by staff or individuals who called in to be able to take care of the problem and that was it. If it was their responsibility to do that, it was fine but there had to be something there that was going to take care of the problem because it was people's way to work and exercise and those things.

Mayor Hack asked Jimenez if they had a response rate on the citations or letters. She agreed the letters would be a better way to go.

Jimenez said he could probably get that information, but would have to look at each individual case and compile that. There were some ideas he had where they could change their certain type of case codes where they could track things a little more detailed. It was something he had thought about in the last month or two. One thing he thought about was they were physically going back to the office and sending a letter out to each person. He knew some jurisdictions that he researched did not do that, but had a door hanger notification. That was one way they could cut down on time. Staff may go out and spend a vast majority of their day looking at the complaints and spend a lot of time entering the case information and mailing the letters. It was a possibility and knew a lot of cities there was notification at the door or personal contact. As far as the education, they did have education. Every year the Journal World

contacted him about an article or Channel 6 news. One key problem was the time period and the five day period. Their goal was to remove it and did not think what they had right now been doing that, which was where they got the most of their complaints.

Mayor Hack said shortening the time period to perhaps three days was a little bit better.

Jimenez said that was a possibility. He simply provided the City Commission with things they experienced in enforcing it and possible solutions.

Mayor Hack said she liked the door hanger idea because it would save time and money and also part one of the notifications would be that if they went to someone's house that snow plows had done it, they could put that on the door that there had been a complaint but were sensitive to the fact that the City covered up what the resident had cleared off.

Jimenez said it was an education process. He talked to staff about trying to recognize when they thought that had occurred and thought they were identifying those areas such as 9th Street where they got significant snow fall it was going to happen and there was no way to avoid that. They worked through those situations and there were many things that came up that they could not make everyone happy on.

Vice Mayor Dever said 6 out of the 8 cities they gave examples of, the cities removed the snow if it was not taken care of. Literally, the other cities that were smaller than Lawrence did it and billed the customers for the job. He did not want to get into that business, but also did not want to have a rule on the books that they did not enforce and did not achieve the goal of walkable sidewalks.

Commissioner Amyx asked if they wanted 24 hours or 48 hours with door hangers.

Mayor Hack said 48 hours and a door hanger was not a bad compromise. She was a little reluctant in getting into the business of removing it themselves because she did not think they had the resources to start that.

Commissioner Highberger said it was something they had to do better and could do better. Madison, Wisconsin was easier to get around after a snowfall there than here. He did

not think there was a good excuse for that. He did not know if it was through stricter enforcement or laws or a civic culture that supported people cleaning their sidewalks, but the next day after a snowfall in Madison, Wisconsin the sidewalks were clear. This was something that had gone on for a long time and appreciated the work of Public Works in keeping the streets clean, but found it frustrating to be driving along the clean streets of 9th Street and Iowa and seeing pedestrians sloughing along through the snow. He thought this was telling pedestrians they were second class citizens. It should not be that way here and thought they should shorten the time and agreed that they should raise the fine and make it much more like the examples they were given. He said places where they had sidewalks abutting the street where the City was routinely burying them with snow, they needed to look at the City taking the responsibility for cleaning the sidewalks to keep pedestrian routes open rather than making them worse which they did now.

Mayor Hack asked if the City of Manhattan contracted out snow removal.

Stoddard said the City operated very similarly to how Lawrence did. There was a notice sent to the property owner, they would need to respond within a certain period of time and if they did not, there would be a fine that would be assessed.

Mayor Hack said if they did not comply the City removed it and the cost of removal was assessed back. She asked what the process was if you contracted out to have that removed and assessed back. She asked if there was special equipment that the City had.

Stoddard said the City of Manhattan did not remove in some corridors but Anderson Avenue near the campus was one place where the City did remove. There were unique situations with the plows and so on.

Corliss said he did not want to promise something they could not deliver. There were a lot of provisions in a lot of City Codes that aspired to a lot of snow removal on sidewalks and in his conversations with municipal managers over the years, they had the same problems Lawrence had as far as the ability to get compliance with private property owners. In

communities that got a lot more snow, it was a lot more attention, a higher priority and probably higher resources. He wanted to make sure what they were promising to the public was something they could deliver. They had something in the code books now that said they were going to fine people, but did not have the administrative mechanisms to do it at that level and would be unfortunate for some people on a complaint basis to get a fine. He had a problem enforcing it that way. Maybe the idea of additional door hangers while they were out there to make sure people knew about it. They needed to make it clear when the City plowed and put it back on the sidewalk, it was a defense and were not going to cite for that location but would not clean up the sidewalk because they did not have those resources. If the community wanted to devote the level of resources to clear major sidewalks, they could do it.

Mayor Hack said they should have 24 hours to remove snow and 48 hours after a complaint. They would keep the fine the same and move to door hangers.

Commissioner Highberger said he thought it should be tightened up more.

Mayor Hack said if they had a different proposal they should consider it.

Commissioner Amyx suggested 24 hours after the complaint instead.

Mayor Hack they would be sensitive to the City plows putting snow back on cleared sidewalks.

The Commission then directed staff to come back with more narrowed list of options for possible modifications to the snow removal ordinance. (21)

Consider natural gas franchise Ordinance for Atmos.

Toni Wheeler, Director of Legal Services, said the proposed franchise ordinance was similar to the one they had with Aquila, another natural gas provider. It gave at most the right to occupy the City right-of-way, subject to certain restrictions in exchange for a fee. The fee in the proposed ordinance was 5% of gross receipts and the term of the franchise agreement was 5 years, which may be renewed. There were other provisions regarding termination and holding