



Harrisburg City Council Special Meeting Minutes July 11, 2016

The Harrisburg City Council met on this day in a special meeting at the hour of 6:30pm, at City Hall, located at 120 Smith St. Presiding was Mayor Robert Duncan. Also present were as follows:

- Mike Caughey
- Robert Boese
- Sarah Puls
- John Loshbaugh
- Adam Keaton (Arrived 6:38pm)
- City Administrator Brian Latta
- City Recorder/Asst. City Administrator Michele Eldridge
- Public Works Director Chuck Scholz

Absent was Councilor Kim Downey.

Concerned Citizens in the Audience: Everyone present was here for the items on the agenda

The matter of Discussing with the Railroad a Joint Project on 4th St.

Staff Report: Latta told the Council that about a year ago, we had started talking with the railroad (Portland & Western Railroad) about a project on 4th St. The other night, we met again with them, and they provided us with a schematic. That is in the packet. He reminded Council that in the past, we had talked about Council's preference to have open tracks, with curbs on each side, and a street on each side, just like 4th Street is between Territorial and Smith. Therefore, the railroad is back tonight, hoping that we can give them a green light to proceed. Because the rail line is in our right-of-way, they have to give us a permit, which we approve, and then they can do the work. The project, for our budget, and phased from their standpoint as well, is for improvement from LaSalle St. up to Moore St. He's not sure about what they intend from Moore to Smith St. Our perspective, is that we want the railroad improvement to get done, have them replace what they want, and provide us with curbs on the interior of the streets. Then, for the city side of the improvements, if the City is responsible for the improvements, then it can be done over time. However, he reminded Council that there are some recent projects that have sucked up a lot of the money in the street fund.

Staff's recommendation is that we hear from the railroad, then decide if we want to do that. If we do, we can give them the green light to move forward, and they can submit their permits. He also recommends that we require them to put the necessary curbs on both sides of the track on the interior of the streets. That protects the railroad from people driving on the tracks. We will negotiate that with them. The open track design is a cheaper alternative than

what other cities have required, so he felt that the curbs on the inside of the streets is affordable because of that. We all know that 4th Street needs to be fixed, so this is a good first step. He invited the representatives here tonight to talk. He introduced Jason Sims, from PNW.

Caughey asked what the width of the right-of-way was for the railroad. Sims told him they (railroad) were responsible for the franchise area, which are within the ties, and extends for 2' beyond the rail. Mayor Duncan thought that they would have an easement for the railroad, but Sims told him no, they have a franchise agreement, and that tells them the width of their area of responsibility. Latta said that our right-of-way is for 60', and Scholz thought so too, without going and looking at the map. Mayor Duncan thought that the open track on 4th street, was done all at once, wasn't it? Loshbaugh said that yes, it was. The railroad wanted to do that to the whole project, but a few councilors didn't want that. They didn't want the railroad to have open tracks, and the opposing group said that they wanted a decent street. Sims said that there will still be streets that will cross the tracks that will have access. That should be at Macy, LaSalle, and Kesling.

Keaton arrived at the hour of 6:38pm.

Mayor Duncan said that his main concern is that the railroad, over time, as long as it has been in town, has steadily torn up the street. He would like to see the railroad kick in something for the street. He wouldn't mind doing the asphalt, curb, gutters and sidewalk, but we've been bent over by the train going through there for years, and it's beyond not fair, that there is not culpability as per the destruction of the road base on 4th St. He was surprised with the concrete in some places in Junction City, where it's already starting to pop up.

Caughey remarked that some of it here that's fairly new is already lifting and moving. Mayor Duncan added that at Schooling, Fountain and Kesling, the road bed is so bad, that water seeps up. It will have to be torn out. Sims agreed. That's our plan, to tear it out. He can throw funding at the curbs, but he'd rather throw funding at the 8" of asphalt underlay they need to install. That's from LaSalle to Moore St, at 40" deep, they need to have 8" of asphalt underlayment. Mayor Duncan asked if that was only under the railroad. Sims said it was. That makes sure that they have a good bed for the rails. Mayor Duncan said that doesn't do anything for the roadway. Sims agreed, but said that half the roadway is already gravel. The only reason that they did what they did in Junction City was because it was an established road, with curbs, gutters and sidewalks.

Scholz said that this goes all the way through to Moore St., and some of the road we aren't able to afford to make improvements on. So in this section, he's very concerned about how it's being constructed, and feels that it should be done all at once. He felt that the railroad bed wouldn't be as strong and supported, if the roadways are not done at the same time. He feels like there is going to be separation. Mayor Duncan said that the portion at his house, was done all at once, and they've had no problems at all. The only place that they had any issues is where the gas line was put through, after the rail lines were opened. He wants it done, and doesn't want to deal with it again 20 years from now. Loshbaugh said that one of the basic problems they had when they worked on Smith St. a few years ago, was that they didn't do a proper dig to get rid of the clay and crap. What does Sims think the 40" of asphalt will do? Sims said that 40" is what we add. We remove some of the spoils on the road, and then put in fresh material. Loshbaugh said that in front to the school on Smith St, we ground and repaved the roadway 4 years ago. It's already breaking up. We had to dig up a water line, and add 4" of crushed rock. The rest of it is pipe in the right-of-way.

Sims said that he's sure we'll find abandoned lines. It will be all through there. Loshbaugh said that when we worked on Kesling and Macy, the railroad did a lot of work there, and we put two tubes under the railroad bed for utility lines. Those two intersections are good. Caughey asked if we will be able to put in facilities under the railroad bed while it's all ripped up, to take advantage of the future. Scholz wasn't sure. The only issue is on LaSalle Street for the future, but the rest of it is ok. Sims said he thought there was some high pressure gas lines, or water lines there. Scholz noted that there were two high pressure gas lines, on the west side of the tracks. There might be some water lines in some places.

Sims said that what we can do, is a 100% rehabilitation of the line from Moore St., to LaSalle. That's 1,400 linear feet. The tracks will be exposed, and are brand new. On LaSalle, they will redo the concrete panels there, and then on Kesling and Moore, there will be a 40' concrete crossing. The only issue is timing from them; if you come in to pave behind this, and there is dirt work involved. Once he gets the green light, they'll start taking out the asphalt from end to end, have it all out then they'll have their excavators and graders in; everything will be exposed. On LaSalle St, you can see the depression on the lines there. They'll look at the highest point between Smith and Moore, and that's what they will shoot to bring it up to grade. The portion that they kick in for the City is the track bed, being 8'6"; we go beyond that, with a 16' center to each side. It will cut down on costs for you guys.

Mayor Duncan asked if from Moore to Smith, it will remain the same. Sims told him that we'll come in next year to take care of it. We can knock off this portion first, and then come back later to complete it. If they did it all at once, it would screw you up a little. Mayor Duncan asked then if it's just Kesling to LaSalle, and then Moore & Kesling will have crossings across. Caughey asked for clarification on the sketch. It says 16'8" on it, but twice during our conversation Sims said 14'. Sims said we have 1400' of replacement to do. Where your curbs stop, is where we start. If we went all the way to Smith St., there would be no access. Our plan is to do this work in two phases. We have to shut it all down, although they may leave Kesling & Macy St exposed. Otherwise, they would have it all done in about 4 days. He added that the replacement work they are doing is about \$1,600 a foot; it's really expensive to do.

Scholz asked if they had already shot grade on this. Sims said yes. They didn't want to waste more time on preparing without knowing whether or not you'll agree. That's the next step. Mayor Duncan asked if they would do the curbing then? Caughey thought that they didn't want it. Sims told him, no, we encourage it. Mayor Duncan asked them if they were bringing in 1 1/2" rock, and then ties? Sims told him the intersection is asphalt, so they'll come in temporarily with asphalt; that way, we can utilize that area. Caughey asked how long the timeframe for this project was. Sims said that they would do the work in late August. It will only take two to three weeks. One week for demolition, and two weeks for shut down and working. Latta asked if the franchise agreement says who is responsible for which costs? You say that you are only allowing for damage that is 2' from the outside rails. However, that's not in our franchise agreement. It says if you damaged the roadway, then it's your responsibility to repair it. He had a conversation with you about a year and 1/2 ago about that. Sims said that it's a 50' right of way and the City is responsible for the potholed area. Latta wondered where that came from. Is there an IGA or something? It's not in our franchise agreement. Our agreement says that whoever causes the damage, is the one responsible. Sims said that they are responsible for where the tracks run. How can they be responsible for areas outside the tracks? Caughey said that the trains are responsible for those areas; because what else did that? Latta told him it's just really hard for us to swallow. We are responsible for the street, granted; but the road is not

in the best shape, and the one consistent element here is the railroad. That's unworkable for the City. How do we make it so the road doesn't worsen?

Sims said that we already already going 12', so we are going way beyond our boundary. Caughey asked what the width of the ties are. Sims told him 8'6", but in the crossings, they're 10'. Mayor Duncan said so we were worrying about the road, and now were worrying about the curbs. People can cross the open tracks, and can fall down and get hurt. Are we liable to fix the street? Or are we responsible as far as liability is concerned? Latta said that's why he struggles with this. We need to determine what is fair and equitable. He's not clear as to why they say it's only 2' outside the rail line, when that's not stated in our agreement. He assumes that there is something there, in the documentation somewhere that spells that out. In his mind, the extra work to repair the damage should be done, otherwise, it ensures that more damage will occur. He has a hard time being the one to say, you go in and do the rail the way you want, but we have curbs, that are supposed to set on top, and we need to put a road in, and there is nothing to butt the curb up against. We do have the money for this next year; but right now, we have funds that are being put into another district. We have money, but not for this, this fall. Sims said that you will have exposed road. Latta said yes, it's exposed, but you don't have people driving on the tracks. We need delineation between where people could drive, and not have them driving onto the rails.

Caughey said that he doesn't want them to misunderstand. We do want to get that dang thing fixed! It's been a problem for a long time, and we keep having an attitude of we get to it when we feel like it. We've requested to have it done. We are very happy with getting it there, but not happy about the road, especially when it's the railroad that caused the most damage to the road. We need clarification from legal counsel, he thinks, and he wants to look at the franchise agreement. It sounds like we have different opinions on what is needed. Latta said that he keeps hearing that they are responsible for only 2' outside the tracks, and we don't know where that comes from. When we talked previously, nobody knew where that is. He did talk with Kevin about that. However, Sims said that would be the property manager. They are the guys who deal with the franchise agreements. Latta said that we only have the agreement, so it would be nice to have that in there.

Mayor Duncan said to clarify we aren't trying to get something for nothing. We are not trying to get you to provide something for free. We aren't into that. We have to look out for our citizens, and without the curbs, that's almost a deal breaker for him. We need some way to protect them, and he's really concerned about that. Sims said that he doesn't see a curb without a road improvement at the same time. That's really the way that curbs are; they get installed when the road is paved. Latta asked what kind of curbing they typically did, and Sims told him it is the same as here. Otherwise, at the intersections, they can drive down the tracks. He said that he would get something to the City about the curbs. However, if the curbs were going on, then it creates a potential hazard. You have something exposed that sticks up. People need common sense, because they can see that a road no longer exists here, but you see an access, that is concreted and paved. It might be worth entertaining the installation of some barricades, that doesn't allow access from Kesling to LaSalle. There really isn't any leeway there. Even if you eliminate access though, you can't stop people from walking on them. He thought to get the project rolling, that barricading would be the best, until you guys decide what you want to do. Do you do your own paving in house?

Latta said no, we typically contract out for that. Sims said that he'd love to say yeah, he can do the track, and the curbs. The main priority is exposing the track, and eliminating the tracks from sagging. Caughey asked if they would possibly be changing the speed limit on the

tracks. Sims told him no, they don't touch that. Loshbaugh thought that while this is expensive, it's not going to get any better by itself. We could barricade a portion of the street for a year, and then decide what to do with the street when we have money. Sims said that they need the road to be a little higher. Ideally, they remove everything, install the new tracks, and have a graded road on either side. If you eliminate access, there are some people who won't be happy, especially if it's for a longer time. Caughey questioned whether there needed to be improved drainage for the properties adjacent to the tracks? A lot of those homes are below the grade of the roadway. He's worried about drainage and runoff into people's driveways. Sims told him that you have ditches and drainage already established down both sides. It's between Kesling and Moore St where you have issues. He didn't see them changing their plans, but they would have one side of the road as gravel for now

Mayor Duncan was worried about how long it would take to acquire funding to do the road? He's worried about proceeding; and if they waited, would Sim's funding disappear? Sims said that it's really hard to get the funding that he wanted, and he's very pleased with what they have. He can put another proposal together. Latta asked Scholz if from a funding standpoint, and if we did all improvements, other than the road, how much we would be able to do. Scholz told him he thought only for about four blocks. Latta asked if we'd be able to do any of the roadway. Scholz thought maybe some. Boese said that he'd like to do it all together if we can. He'd hate to have it sit unfinished for a year or so. Sims said that he'd work with the City, since he'll have the team and equipment already here, it could help save on costs. Latta reiterated that in the street fund, we don't have any money; but there are SDC's. Our funding is going to the Moore St. project right now. Council talked about the state of 4th Street for a while, and how much the road had deteriorated.

Latta said that our city engineers would need to look at the plans. He doesn't think that we could get all the engineering done in the next month. Sims said you could shoot it, at a bare minimum. Scholz said that one set of plans typically takes eight weeks. He doesn't know with the timing if we could pull it off when needed. Loshbaugh said that there would be problems with barricading parts of the street, but we do have crossings. We could do it in sections, but we'd have to block it off to keep the idiots off it. We can let them do their job, and we'll deal with it as we can. Latta was really concerned about people who have access onto 4th St. We'd be cutting off their access. He knows that there are some homes that would have their access blocked. Sim's said that he thought there weren't many. Remember, the project is from Kesling to LaSalle. Latta knew that there were some on the east side of 4th for sure. It's definitely a challenge.

Caughey asked how long it would take to get the engineering done. Sims said that they could provide them with preliminary plans. Scholz noted that we are getting bids on another project next week, and they are working on the three other projects. We might be able to go a little faster than what we would normally. Damien Gilbert, our main city engineer, has transportation as his specialty. He'd have to talk to him first. Latta said that we still need an answer on who is responsible for the road deterioration. The railroad going through has caused damage to the street, and he's pretty certain that's outside the 2' that Sims mentioned. Sims said then, where do you stop? The figure he gave them is based on everything we've done for years. Do they want something in writing? Latta said he wants to know where that comes from. Is it from the state, or the feds, etc.? What is the difference in cost for this project, versus the one in Junction City? If we came in and put in all the road and improvements, then what is the price tag for that? Sims said that right now, he'd say we don't have a road. It's largely non-existent. You can pave what you want. Latta said that we could build over years, right? Why

can't we do the curbs now, and then get the rest of the project built out in a couple of years? It seems like they (the railroad) are saving a lot of money by allowing the open tracks, compared to the other scenario.

Caughey said that he felt the next step is to look at our agreement, and find out what it really says. If it's not in writing, it doesn't exist. Boese agreed, and said that he would like to see an actual agreement on what the railroad says we are responsible for. If we can do something similar to Junction City, then it could perhaps save us some time. Perhaps we could do just a quarter of the project a year, whenever funds are available. Sims said that's why we started these meetings over a year ago. Boese added that if they say the money will be gone, then it's a no-brainer, and we need to get it done. Sim's said that's where he is at. Caughey noted though, that we don't have time. We would have needed to start six months ago to get the engineers on board, and to look for funding. There is no way we can do it in a month. Scholz said that he can look at the time frame. We have to look at the infrastructure too, such as the gas lines, and power lines. Again, concerns were expressed about the access for homeowners living along 4th Street. Sims thought it wouldn't be a problem. Latta noted that some of them might have access from being a corner lot, but he's pretty certain that there are a couple of access issues there.

Caughey asked if we could do it in sections. Latta said that we could perhaps we could do a portion, such as that south of Schooling St. We may not have funding now but we might if we did it four years in a row. We don't have time right now, to do it all, with all the engineering requirements. We might be able to do a smaller segment this year. Loshbaugh thought the main issue is to get tracks so that they are safe and durable. There will be some inconvenience for some households, if they have to drive on gravel for a year or so, but there's a lot of places in the street that would be better than they are now. You have two crossings at Smith and Kesling, and Macy too. Sims added that those will have 100% access when we are said and done. People will be able to come down 4th and turn onto Moore St. We need to barricade the section between Kesling and LaSalle. We can grade it all with gravel, expose the east side of the road, and barricade the west side. You'd have to make it one way. Loshbaugh thought we could leave it all gravel until we can pave it. Sims agreed. Open up one side, and barricade the other. Mayor Duncan asked if there needed to be a public hearing on this, but Latta told him no, it wasn't required.

Sims said that they will get the engineering completed on their side, ASAP, and will go beyond to Smith St. when they do their grade readings. Scholz asked if they were envisioning LaSalle St as the starting point for grading. Sims said yes. He's pretty positive that he can pull this off next year. He can submit that, and try to knock it off. If you want to wait a year, you have time to get the engineering and planning done. Caughey said that doing it once, is cheaper than trying to do it twice. Keaton said that if we could get everything done next year, it made sense to tie in with the contractors, in order to have a practical approach in getting things done. Puls said that she was still concerned that our franchise agreement doesn't specify the 2' that Sim's is telling us is there. Sim's said that the problem with that, is where does it start, and where does it stop? That's the point we need to agree on. Where do we stop maintaining, and we can safely say that's caused by the railroad. Mayor Duncan was concerned about that, but if it needed to be replaced, then it needs to be done. Puls agreed. Sim's said that you own all that (4th St.) and can do anything you want anytime. Latta said that there are responsibilities. Where does the 2' start from? Sims told him from the track on each side. Latta wondered if we are just spinning our wheels here. Is it worth looking at that? Keaton thought whether or not it has any impact on this project that it's still worth finding out.

Caughey said that he felt we should move forward; he doesn't see any reason not to. He thinks it's a matter of knowing what it encompasses. But with giving them the go-ahead, he's ok with that. But everyone should understand what they are doing to do, and should do. Loshbaugh felt that at this point, we should move ahead on the project, or it will be ten years before it's fixed. Latta asked Sim's if they have their capital projects planned out for ten years? Sim's said typically, they present their wish list yearly. Typically, they have about a quarter of what they have now. The revenue is likely not going to be as good next year. That's why he's pushing now. We are already at the point, six or seven months into the year that they look at where we are on projects, and say hey, let's pull that. Then again, he has a guy that he works with who often says screw the pooch, we will get this project completed. Latta said that's why we talked with you a year and a half ago. Sims said that they have different management now, so things changed slightly.

Sims thought that we needed another meeting. He will get his design completed, and can meet again with the City, and determine who does what. Whether the barricade is something the city provides, or the railroad. Scholz agreed, and said we need a set of plans. From his perspective, these drawings on a piece of paper are freaking him out. If we did nothing but the tracks, then where are the plans, and where does it leave us? His department has to deal with that. This is a Council priority that needs to be explored. Puls asked what we were looking for here. Latta said that they are asking for a permit from us to do the work. They submit the plans, and we say it looks good. We have to evaluate where they are shutting off access, and figure out the barricades. If he didn't get the plan Ok'd, then he has to get the plans drawn, and we can say yes that works. Sim's said he knows where you are coming from. But he can guarantee that it will be a hell of a lot better than what it is now. You need to determine what you are responsible for. In each section, they'll take care of the cuts, but really, all he's asking for now is barricades. That's about the extent of the city's involvement. We are ripping everything out, pulling out the road, and are installing new tracks. We just need barricades.

Latta said that if Council is ok with this, then you can get the plans, and come back here, say here are all the issues, and here is the solution. Then if you are comfortable with all gravel roads, and potential closures on the east side, then we look at the next step. Latta said that he thought a graded road would be ok.

- Loshbaugh **motioned then to move ahead with this project, as it has been discussed. He was seconded** by Caughey, and the **City Council voted unanimously to approve the project as discussed.**

Sims said that he will get it all drawn up, and will get it to you. It won't be pretty; the drawings will be really plain. Its basic railroad drawings Latta said that he will send Scholz after you with any questions once we get that. Sims said that getting the locates done, etc. That, plus barricades, and signs, minor things, are what he needs from the City. He will get the plans, and meet with you again. Caughey asked how long he thought it would be. Sims thought about a week. He will get with his guy, and hope he's not booked up, and will give the plan to Latta. Latta said that we have another meeting on July 27th. If Sim's can get him the information by the 21st or 22nd, then we can have a recommendation. Ideally, we'd like to review the plans four or five days prior to that.

The City Council then recessed from 7:51pm to 7:54pm.

Others:

Latta talked briefly about Municipal Court. The first court will be held on August 10th. He should also let Council know that we have two accidents that are being investigated from the 4th of July. There was one issue where a parade driver ignored the warning bells for a train, and then the other was a girl who fell off her horse, and had head trauma. She had to be taken to OSHU. Otherwise, the 4th went off without a hitch. There was a huge number of people in town after the parade, and it was very crowded. However, later in the evening, it wasn't as crowded.

Latta continued, saying he's working on a lot of things right now. He will be heading to Bend for an OCCMA Conference really soon. He will have a national conference to attend later in the summer. Mayor Duncan liked the TV, but Latta told him that there isn't power to it yet. We hope to have it set up by the 27th. He will probably be the one to run it. It's a smart TV, so we should have access to it for training. Mayor Duncan asked about illegal fireworks, and Latta told him that there were some. Loshbaugh said that there were a lot at 7th Place. A lot of them were the same size as across the river. Latta had asked the deputies to focus on illegal fireworks after the main fireworks. We'll have to see what it says in the report. Keaton said that most of the illegal fireworks he saw were before the main fireworks. Eldridge agreed with him; there were a lot near the main event site. Council thanked the Mayor for dressing up for his role in the parade. Caughey thanked the Public Works crew; he came in early on the 5th of July, and met with some friends and the town looked wonderful. There was no trash anywhere. Some of the barriers were still being collected, but he's amazed at how quickly the town was cleaned up. He was happy to see the banners up in time for the holiday. He's very amazed at what our Public Works guys can accomplish.

With no further business to discuss, the City Council adjourned at the hour of 8:12pm.

Mayor

City Recorder