

**OSSEO CITY COUNCIL  
WORK SESSION MINUTES  
August 23, 2022**

1. CALL TO ORDER

Mayor Duane Poppe called the work session of the Osseo City Council to order at 6:00 p.m. on Tuesday, August 23, 2022.

2. ROLL CALL

Members present: Councilmembers Juliana Hultstrom, Harold E. Johnson, Larry Stelmach, Alicia Vickerman, and Mayor Duane Poppe.

Members absent: None.

Staff present: City Administrator Riley Grams, Public Works Director Nick Waldbillig, Alyson Fauske, WSB & Associates, Monica Hile, Vice President WSB & Associates, Emily Brown, WSB Associates, and City Attorney Mary Tietjen.

Others present: Patricia Cochran, City Resident; John Cochran, City Resident; Carol Nielsen, City Resident; Sarita Nelson, City Resident; Colleen Klobucar, City Resident; Peter Stanton, City Resident; Tim Lijewski, City Resident; Brad Wutschke, City Resident; Barb Wutschke, City Resident; Jim Mikolai, City Resident; Diane Hasbargen, City Resident; Naomi Wills, City Resident; Colleen Stanton, City Resident; Preston Kroska, City Resident.

3. AGENDA

Council agreed to discuss the work session items.

Johnson read a statement regarding the roles and responsibilities of the City Council, City staff and WSB. He noted he was concerned with the boulevard area which has sunk and become a tripping hazard.

4. DISCUSSION ITEMS

A. 2020, 2021 AND 2022 STREET AND ALLEY PROJECTS

Alyson Fauske, WSB & Associates, stated over the past couple of weeks residents from the 2020, 2021 and 2022 Street and alley project areas have contacted Council to discuss items that are not to their satisfaction. She explained she appreciated the time that Council has spent with residents, her colleagues and herself so that she can understand the tasks to be addressed. She commented on a high-level summary of what she's heard, what is being done (or what has been done) to address the issue, and what will be done differently in the future in effort to avoid these issues.

Ms. Fauske explained as a contractor progresses with work on the project the city is contractually obligated to promptly pay for that work but there are still mechanisms in

place that ensure that the final product meets or exceeds the City's standards, such as retaining a portion of the project costs when processing a pay voucher and the performance bond that the contractor issues in favor of the City. During the project closeout process the contractor provides a warranty bond to ensure that the contractor performs corrective work that appears within the project during the warranty period. The warranty period begins from the date that the City Council accepts the improvements, and for this project, the warranty runs for two years. Ms. Fauske noted it is worth mentioning that sod is not included in the warranty bond, as the contractor is responsible for maintenance of the sod for 30 days and if the sod is in good condition at that time and has taken root at that time, sod becomes the property owners' responsibility. Staff reviewed the issues that have been raised in further detail with the Council, noting a change order should be considered for the driveway grade on the north end of Alley 5.

Hultstrom stated one of her major concerns with Alley 5 was with Colleen's garage. Ms. Fauske reported the concerns with the garage would be addressed with the proposed reconstruction of the north end of Alley 5. She noted the alleyway would be lowered through the change order.

Johnson commented further on the work that would be needed to improve the situation at Colleen's garage. Ms. Fauske explained the intention of the change order project would be to return the drainage on Colleen's property to the alley.

Johnson recommended the puddle on the other end of Alley 5 be addressed as well. Ms. Fauske stated this matter was on the punch list and would be addressed.

Vickerman questioned if the change order would address the tight corner at Alley 5. Emily Brown, Project Manager with WSB, noted this would be addressed.

Vickerman requested further information on how the elevation was decided for the alleyway projects. Ms. Fauske discussed how alleyway projects are constructed. She reported elevations are set for the contractor. She commented on the corrective work that would be done by the contractor to fix the issues within the alleys. She explained WSB cannot dictate means and methods for the contractors, but does address glaring issues with questions. She then discussed how back pitched driveways are addressed. The issues that can occur when alleys are reconstructed were further reviewed.

Johnson stated it was his understanding the contractor was to power trowel the alleys, and the contractor opted to hand troweled them. He believed power troweling would have been a better option. He stated the alleys from 2019 had perfect water runoff and then were power troweled while the 2022 alleys were hand troweled, and the water did not properly runoff. Ms. Fauske questioned if WSB can dictate the means and methods for contractors. Monica Hile, Vice President with WSB, reported WSB can look at dictating the methods for construction and put language in the contract the specify what type of work would not be accepted. However, contractors have the opportunity to modify those in order to produce the same work product based on their expertise. She indicated WSB would have to review this language and the product specifications in order to ensure the City gets the bids they want along with high quality work. She noted WSB typically defers to MNDOT specifications for industry standards.

Stelmach explained he was thinking about this matter as well and noted there was a general acceptance that the contractor would have to redo some of their work because they opted for a method that ran a risk. While it doesn't do anything for the residents that were facing ponding on Alley 5, the contractor had free will to complete the project and now it has to be corrected. He reported it was said the impact it was having on residents, but the contractor had to make it right. He discussed the flat driveways on Alley 5 and thanked WSB for taking on the reconstruction of the driveway concerns. He stated this meant a lot to him.

Vickerman questioned if the large pooling areas between 5<sup>th</sup> Street and 6<sup>th</sup> Street would be addressed. Ms. Fauske explained the ponding on Alleys 8 and 9 would be corrected.

Stelmach asked what alleys were having corrective measures. Emily Brown, WSB & Associates, reported all alleyways were having corrective measures, some requiring more work than others.

Further discussion ensued regarding the drainage coming from the south end of Alley 2.

Johnson inquired why storm sewer was not installed in this alleyway. Ms. Fauske recalled that the storm sewer elevation could not be pitched properly because the area was too flat.

Johnson reported the other end of this alley was much higher than the other end of the alley. He commented on the big pool that collected on this alleyway after the last rainfall. He requested Staff investigate this further to ensure this pool would be corrected through the punch list.

Vickerman asked if the parking lot had to drain into the alleyway. Ms. Fauske stated she did not see a way to change this flow.

Hultstrom commented on the note that says Alley 2 drains to fresh water. She questioned if this alley had storm sewer. Ms. Brown stated the only alley that has storm sewer drainage structures was Alley 5. She commented further on the structures that were in place along Alley 5. It was noted all of the other alleys only have sanitary sewer.

Hultstrom expressed concern that Aggregate Industries warranty on the product was breached. She noted the alleyway was supposed to have a week cure rate, it was poured on a Friday and they brought a cement truck in on a Tuesday. She reported Aggregate Industries knows where their trucks went and knows the warranty has been broken. She was concerned with how warranty issues would be addressed going forward because she did not want the City held liable for any costs or concerns because the contractor broke the warranty. Ms. Fauske stated in these instances, the City does not have a warranty with the manufacturer of the product but rather with the contractor. She indicated the warranty period would begin two years from the date of final payment. She noted if a breach occurred and equipment was running over the concrete, this would be the responsibility of the contractor. She commented further on the performance and warranty bonds that were in place with the contractor.

Johnson stated it was his understanding that all alleyways would require work. Ms. Fauske reported work was required on all alleyways to some varying degree.

Johnson questioned how corrections would be made when concrete was already in place. Ms. Fauske described how the low areas would be addressed through a grinding method or panel replacement.

Stelmach inquired how the breach was documented at this time.

Hultstrom reported Aggregate Industries is aware that they poured product and they keep track of where their product was poured.

Stelmach questioned if the City had documentation of this event. Ms. Fauske stated she was not aware of when the City would be the holder of such a guarantee from a supplier, rather the City's guarantee lies with the warranty bond which provides a two year warranty on the project.

Stelmach explained if the vendor who did the work conceded that they drove on the concrete before they should have, he wanted to know where this concession was documented. He wanted the City to be empowered.

Hultstrom reported Aggregate Industries knows the warranty was broken, but she didn't have documentation. Ms. Fauske reported if the panel that was driven on cracks or fails in the next two years, the City has the warranty bond which would require the contractor to do corrective work. City Attorney Tietjen advised the City's remedy is through the bond, which was for a 24-month period.

Hultstrom requested the punch list be provided to all City Councilmembers.

Stelmach asked that the punch list be updated as the weeks go on and be resent to the Council. Ms. Fauske noted she can provide the Council with this information along with summaries of the project costs.

Vickerman requested further information on why the City has to choose certain bids. City Attorney Tietjen reported by State law the City was required to accept the lowest responsible bid.

Ms. Fauske turned the discussion to the 2021 street project and the window pane sidewalk panels.

Hultstrom stated she believed the window pane style sidewalks were slippery, especially in front of Benedictine or Steeple Point. She noted the slope of the concrete towards the ramps was very slippery.

Johnson suggested the sidewalk panels in this area be grinded down to remove the slippery surface. Ms. Fauske reported all ADA requirements would still have to be met by the City if the truncated dome area was changed.

Ms. Fauske then discussed the 2020 street project and commented on the retaining walls.

Hultstrom stated she had concerns with the gaps between the retaining walls and the stairways noting a foot could get stuck in this area, which was a public safety concern for her.

Johnson indicated he was also concerned with the different step heights and depths. Ms. Fauske commented on the rise of the steps noting the original design had two steps being equal with the first step being a ramp. After discussing this further with the resident, she was informed the resident wanted only steps and no ramp.

Hultstrom requested Ms. Fauske speak with this resident further to see if there were concerns regarding the stairs and retaining wall.

Vickerman suggested Staff also further investigate the ADA requirements for steps and retaining walls to see if steps could be two different heights.

Ms. Fauske discussed the catwalk and driveway for two different properties that were included in the 2020 street project. She explained 18 feet was a minimum driveway length.

Hultstrom reported this resident spoke to the Council and Staff on numerous occasions and this resident was told they could have the driveway extended towards the house. She requested Staff speak with this resident to see where things stand. Ms. Fauske stated she would reach out to this resident.

Ms. Fauske commented on the sod for the 2020 project. She reported all dead areas were resodded in late September or early October of 2020 and were inspected after 30 days. She explained in the spring of 2021 there were two properties that were identified for sod replacement this year. She discussed how the drought impacted the sod along with how some sod shrunk and was now below the curb line. She requested direction from the Council on how to proceed.

Stelmach stated he was in the 2020 project area. He discussed how the sod that had died on his property sunk two to three inches. He questioned if this was normal. Mr. Fauske explained she was not a sod expert, but noted the intent was to have the sod at the height of the back of the curb. She reported if the ground sunk two or three inches where the sod had died, the Council would have to decide how to address this concern.

Hultstrom questioned if WSB had walked on the boulevards within the 2020 project area. She stated these boulevards felt very spongy, which led her to believe the soil under the sod was poor quality. While she was not a sod expert, she believed the underlaying soil was "squishy", which was a safety issue. Ms. Fauske reported it would be difficult for Staff to determine who had done corrective work on the boulevard and who had not.

Johnson stated he believed mulch was used under the soil and noted mulch breaks down over time, which would lead to the sod dying and sinking. Ms. Fauske explained she did not see what type of soil was spread under the soil, nor was she a sod expert. She reported a MNDOT standard of topsoil was supposed to be used under the sod.

Stelmach suggested all future projects require contractors to let staff know the type of soil and sod that is being installed. Ms. Hile reported the City could collect tickets for the topsoil different from the sod. She indicated this would require more staff time, but would be an option for the City.

Stelmach supported the City not installing sod until later in the fall in order to reduce the stress of watering.

Hultstrom asked if the Mayor would allow residents in attendance to speak at this meeting.

Poppe suggested the Council get their questions answered prior to taking comments from the public.

Hultstrom questioned if core samples could be taken to see what type of soil was installed under the sod. Ms. Fauske reported she did not have a lot of experience with soil mechanics or organics, and could investigate the matter further.

Stelmach stated this may not be the best use of City resources.

Hultstrom indicated she received a message from a resident (Kenny Nelson at 509 Third Avenue) stating the soil spread under the sod was black dirt mulch with a lot of wood.

Vickerman anticipated there was a certain amount of compaction that occurred after black dirt was spread and sod was laid. She supported the City filling the boulevards higher in order to accommodate or plan for this. She suggested the City consider seeding boulevards in the future.

Hultstrom stated the City needs to know what the problem was before they can determine a solution.

Poppe opened the meeting for public comment.

Preston Kroska, 601 2nd Avenue NE, thanked the Council for allowing him to speak. He reviewed a photo of the material that was installed under his sod, noting the material had wood chips. He stated he sent an email to staff regarding this concern. He commented further on the material that was used and recommended the City use normal topsoil in the future so it does not break down. He stated ideally, the City should be using four inches of topsoil. He stated he supported sod not being installed until the fall for watering purposes.

Patricia Cochran, 501 2nd Avenue NE, explained she agreed with Mr. Kroska noting the topsoil that was used under the sod had a great deal of wood chips. She requested the City take care of the boulevard along Second Avenue NE that was all weeds.

Carol Nielsen, 400 2nd Avenue NE, stated her boulevard was full of weeds and her boulevard has sunk an inch and a half. She explained she was exacerbated by the entire situation and has pulled many of the weeds, because she has never had them in her yard before. She reported much of the sod that was installed has died which was a

concern to her. She indicated she paid her taxes along with her assessment and she would like this matter resolved by the City.

Sarita Nelson, 509 Third Avenue NE, reported the soil in front of her home sunk and was spongy. She explained she was worried about her children tripping in the boulevard and falling into the street. She requested the City help her, and the other residents within the 2020 project area remedy this situation. She thanked the Council for holding this meeting and for allowing the residents to voice their concerns.

Mr. Kroska explained it was his understanding the 2020 street project came in \$25,000 under budget. He asked if refunds would be given to residents for overpayment. He feared that WSB would be offering more lip service and would not be addressing the concerns of the residents of Osseo. It was his hope the Council had a better representative from WSB working on behalf of the community.

Poppe closed the meeting for public comment.

Vickerman explained she would like to see the City raising the level of soil in the boulevards in order to address the tripping hazard that was present at this time.

Grams commented the City has never offered rebates or refunds while he has worked for the City. He explained the City had no policy in place to address this matter. He indicated the Council could discuss this topic and would have to put a policy in place before this matter could be considered. He stated assessments were for the benefit of the property and the value to the property would remain the same whether or not the project came in over or under bid.

City Attorney Tietjen discussed the process that could be followed per State Statute, if a reassessment process were to be pursued by the City. Grams reported if the project were to come in over budget, the City would eat the cost and would not pass this amount onto the property owners.

Stelmach stated he supported the Council discussing this topic further at a future worksession meeting.

Hultstrom agreed. She explained she supported the City addressing the boulevard safety concerns at this time. Grams reported if the majority of the Council supported work being done to address the 2020 boulevards, the City had funding available from the project budget to cover this expense.

Poppe questioned if the City should consider seeding or sod for the boulevards. Grams stated this was always a debate. He explained sod works when the fill was good and it was laid properly. He indicated the homeowners also had to agree to take care of the sod. He stated Staff was aware of the fact the City could do more education with the property owners to ensure the sod was being cared for properly.

John Cochran, 501 2nd Avenue NE, stated he watered his yard, including the boulevard. He discussed how the water truck from the contractor watered the sod sparingly, and noted residents would have to assist with watering the sod to ensure the sod lived.

Vickerman questioned if the City could offer vouchers to assist residents with watering their new sod. Grams commented he has not seen this done in the past. Ms. Fauske reported the contract requires contractors to water new sod for 30 days after it is installed.

Johnson explained there were rolls of sod that were dead within a week or two after being installed in 2020. Ms. Fauske noted a bulk of this sod had already been replaced.

Hultstrom commented she supported sod being replaced in cooler temperatures for the properties in the 2020 street project.

Grams stated going forward his only concern with requiring sod to be installed in the fall would be how to stabilize the topsoil. He noted temporary seeding may be required for the boulevard or disturbed areas.

Poppe reported 2020 was an anomaly year due to the weather and drought.

Further discussion ensued regarding how topsoil would be managed if sod was not installed immediately.

Public Works Director Waldbillig encouraged the Council to take a project specific approach to sod installation versus putting a policy in place that would require all sod to be installed in the fall. Grams supported this recommendation and stated education of the public would be important to ensure all sod was properly watered.

Poppe requested Staff report back to the Council with bids to resod and add soil to the 2020 boulevards.

Johnson questioned who would cover the expense for this work. Grams stated the City would cover this expense.

Hultstrom thanked Ms. Fauske and Ms. Brown for all of their attention to the Council's concerns.

Stelmach thanked all of the residents that reached out to the Council with their concerns. He stated he also appreciated how WSB was working with the Council as a collaborative partner.

Vickerman thanked all of the residents who contacted the Council and provided pictures of their concerns. She stated she appreciated the fact the City would be addressing the safety concerns that have been voiced.

Ms. Fauske stated she would request estimates for adding soil and resodding the 2020 boulevards and reported all future sodding would be completed on a case by case basis. She then reviewed her commitment to communication for all projects with the City going forward.

5. ADJOURNMENT

The Work Session adjourned at 8:25 p.m.



Respectfully submitted,

Heidi Guenther  
*Minute Maker Secretarial*