



RESOLUTION 2014-073

A RESOLUTION EXTENDING THE AREA 59 REIMBURSEMENT DISTRICT BY 5 YEARS TO MARCH 4, 2023

WHEREAS, Chapter 13.24 of the Sherwood Municipal Code ("SMC") permits those who finance and install public improvements to seek reimbursement from other persons or entities who benefit from those improvements; and

WHEREAS, the Sherwood School District ("District") was required to finance and construct certain public improvements to serve the Edy and Laurel Ridge schools in Area 59 and applied for and was granted a reimbursement district via Resolution 2008-011; and

WHEREAS, since establishment of the reimbursement district six years ago the economy took a downturn and the School District has only received 12% of the anticipated reimbursement; and

WHEREAS, in accordance with SMC 13.24.100.H, the Sherwood School District has requested the City Council authorize a 5 year extension to the reimbursement district to provide additional time for the economic conditions to change such that more of the anticipated reimbursement is received; and

WHEREAS, the School District has demonstrated and the City Engineer and Public Works Director concur that there is good cause for the extension and the value of the improvement to the properties in the reimbursement district remains sufficient to warrant the reimbursement; and

WHEREAS, the City Council held a public hearing on November 18, 2014 and December 16, 2014 to receive comments on the proposed extension and carefully considered all comments received and points made; and

WHEREAS, after full consideration of the School District request, staff recommendation (Exhibit A) and public comments and testimony received, the Council finds that there is good cause for a five (5) year extension of the reimbursement district and the value of improvements to the subject properties remains sufficient to warrant reimbursement.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Area 59 Reimbursement District authorized via Resolution 2008-011, is hereby extended to March 4, 2023

Section 2. Section 3 of Resolution 2008-011, is repealed.

Section 3. The amount paid by each benefitting property shall not include an amount for interest.

Section 4. The Sherwood School District shall refund to a person who paid the reimbursement fee prior to the effective date of this resolution an amount equal the interest paid.

Section 5. The city recorder shall provide notice in accordance with 13.24.070 and record the resolution in accordance with 13.24.080

Section 6. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 16th day of December 2014.


Bill Middleton, Mayor

Attest:


Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Craig Sheldon, Public Works Director
Bob Galati P.E., City Engineer

Through: Joseph Gall ICMA, City Manager
Julia Hajduk, Community Development Director

SUBJECT: The Sherwood School District has made a formal request that the effective date of the Area 59 Reimbursement District be extended by 5-years in conformance with the requirements of Municipal Code Section 13.24.100.(H).

Background:

On March 4th, 2008, City Council passed Resolution 2008-011 which established the Area 59 Reimbursement District for the Sherwood School District. As part of that decision, City staff submitted a detailed analysis of the improvements and options for assigning reimbursement responsibility to benefited properties. The City Council established the reimbursement district, after opportunity for public comment. Per City Code Section 13.24.100.(H), the initial reimbursement effective time period was for 10-years, ending March, 4th, 2018. In the intervening time period, only three of the eleven benefitted properties have been developed and paid the reimbursement district charges. Those three properties include the Rychlick Farms Subdivision and the Daybreak Subdivision.

In a letter from the Sherwood School District dated October 13th, 2014, the School District requested that the effective date of the Area 59 Reimbursement District be extended by an additional 5-years as allowed by Sherwood Municipal Code Section 13.24.100.(H). The effective date if the request is approved and enacted would become March 4th, 2023.

Per the Municipal Code, there are two criteria which must be met in order to grant an extension:

- 1) Demonstration of good cause for the extension; and
- 2) The value of the improvements to the subject properties remains sufficient to warrant reimbursement.

City Review:

City staff has reviewed the extension request, included as Attachment 1 to this memo, and conducted a review of the existing condition and remaining life cycle of the public infrastructure constructed under the original reimbursement district action.

Demonstration of good cause for the extension

The applicant has indicated that the "Great Recession" and the resulting reduction in building activity in the area is good cause for the extension. Specifically, they note that, to date, they have only received 12% of the investment they made into the public infrastructure. They further note that the funds invested in the infrastructure were paid for by voter-approved bonds and allowing the reimbursement to be extended so that more of the investment can be recovered would provide additional opportunity to address capital needs within the School District.

The value of the improvements to the subject properties remains sufficient to warrant reimbursement

The reimbursement district covers the following public infrastructure categories; a) transportation (Copper Terrace), b) water system, c) sanitary sewer system, and d) storm sewer system. The

term "design life" is the expected time in years the materials which make up the major component of the system are expected to last under normal use and with regular system maintenance. Generally, when the system life cycle is reached the system is replaced. For water systems, the standard design life for the pipe is 75 years. For sanitary and storm system pipelines, again the standard design life is 75 years. For roadways the system design life refers specifically to the asphalt pavement and not the entire road pavement section, which includes the base rock, and subgrade materials. Under typical traffic loading and weathering conditions, along with regular surface maintenance, the standard asphalt pavement road system design life is 20 years.

The street, water, storm and sanitary systems were constructed and accepted on July 15, 2009. City staff has reviewed the maintenance reports for the storm, sanitary and water systems, and performed an on-site review of the asphalt pavement surface conditions, and have determined that the material conditions are still significant relative to the overall standard design life cycle for each system. In addition, there is sufficient capacity to serve the needs of anticipated developments which will benefit from the improvement and there have been no changes to any master plans that would require additional improvements or upgrades to the systems.

Staff considered whether the any of the systems were degraded to the point that a reduced amount of reimbursement would be appropriate. In other words, we wanted to consider whether someone paying into the District in the year 2020 would have the same quality of improvement as those paying in 2012. In staff's determination, because of the remaining design life of the improvements, no reduction of the reimbursement district parcel assessments is warranted.

Recommendation:

City staff concurs with the applicant's demonstration of "good cause" and has determined that the remaining design life cycle for the public infrastructure is sufficient to warrant the extension of the reimbursement district without reduction of the assessed reimbursement amounts.



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October 13, 2014

Julia Hajduk
Community Development Director
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Via: E-mail and Hand Delivery

*Re: Application to Extend Area 59 Reimbursement District
Sherwood Municipal Code Section 13.24*

Dear Ms. Hajduk:

On March 4, 2008, the Sherwood City Council (Council) passed resolution 2008-011 establishing the Area 59 Reimbursement District. The Area 59 Reimbursement District was established as a result of the Sherwood School District (School District) constructing the Edy Ridge Elementary School and the Laurel Ridge Middle School, and included construction of public water, sanitary sewer, and stormwater infrastructure, as well as a public street. All of this public infrastructure serves property owned by others within the general area of the two schools, and was infrastructure that the owners or developers of the benefitted properties would have had to build had Sherwood School District not done so.

The District's right to seek reimbursement ends ten (10) years from the effective date of this resolution, or March 3, 2018.

On June 3, 2014, the Council adopted ordinance 2014-011. This ordinance allows Council to consider a request to extend a reimbursement district up to five (5) additional years. There are two criteria that must be met in order to grant an extension:

1. Demonstration of good cause for the extension
2. Value of the improvements to the subject properties remains sufficient to warrant reimbursement.

Sherwood School District is applying to extend the reimbursement district 5 additional years. We present the following information supporting our request:

1. *Demonstration of good cause for the extension*

The Great Recession effectively halted development within the City of Sherwood. The attached chart shows residential construction permits for the City's fiscal years ended June 30,

2001 through 2013. Our reimbursement district was established in fiscal year 2008. For the five fiscal years preceding 2008, 1,498 construction permits were issued; an average of just under 300 per year. For the five fiscal years after 2008, total construction permits issued were 329, or an annual average of approximately 66. Residential construction permits for the 5 years subsequent to 2008 were 22% of permits issued for the 5 years preceding 2008.

The 78% reduction in residential building permits is demonstration of good cause for extension, as to-date, Sherwood School District has only recovered \$199,649 or 12 percent of the investment that it made into this public infrastructure. It is important to note that the remainder of the reimbursement district fees to be collected is not a lien on the properties. The fees attributed to any of the benefitted properties only become due and payable when the properties are developed, if they ever are within the life of the reimbursement district. So, for example, a sale of a benefitted property would not trigger payment of the reimbursement district fees.

Funding for the infrastructure was provided to the District by voter-approved bonds. Bond council has advised that the use of reimbursement fees must be consistent with the use of the original bond proceeds. Allowing the extension of the reimbursement district, may provide an opportunity to address capital needs within the District.

2. Value of improvements to the subject properties remains sufficient to warrant reimbursement.

Harper Houf Peterson Righellis, Inc. (HHPR) were engaged to determine whether the value of the improvements remains sufficient to warrant reimbursement. A copy of their report is attached.

HHPR reviewed the current City planning documents to ensure that the public improvements included in the reimbursement district are still valid requirements and represent what a developer would be required to construct as part of a current development application. For each element of infrastructure, street, sanitary, storm, and water, HHPR found the element is consistent with the appropriate City plan.

HHPR also reviewed the current Sherwood City Engineering Design and Standard Details Manual and Clean Water Services Design and Construction Standards to ensure that the improvements included in the reimbursement district are still valid requirements and represent what a developer would be required to construct as part of a current development application. For each element of infrastructure, street, sanitary, storm, and water, HHPR found the element is consistent with these standards.

HHPR also conducted a site visit to visually review the improvements that are available by surface inspection. Based on this site visit, the infrastructure is operating as intended and with standard regular maintenance has remaining useful life for future development.

HHPR did the work documenting values in the original application or establishment of our reimbursement district. Their conclusion that the value of improvements to the subject properties remains sufficient to warrant reimbursement satisfies the second criteria for extension.

We request a public hearing on our application for extension on Tuesday, November 18, 2014.

Sherwood School District acknowledges there was opposition to the imposition of the fees on certain properties within the reimbursement district. The owners of the property that benefits the most from Sherwood School District's investment attended and participated in the public hearing in March 2008 at which the reimbursement district was established. Those owners then appealed the approval of the reimbursement district by writ of review to the Washington County Circuit Court. Among other things, the owners argued that the methodology of the reimbursement district was flawed in a number of respects, and that certain improvements did not have the capacity to serve their property. After a lengthy hearing, the Circuit Court denied the writ and upheld the City's decision. The owners then appealed that decision to the Oregon Court of Appeals, which affirmed the Circuit Court's decision. The owners then appealed that decision to the Oregon Supreme Court, which declined to hear the appeal. There are many issues, then, that have already been considered and fully adjudicated with respect to the reimbursement district, and so are they not relevant to this extension request. There are only two criteria that are relevant, and we believe we have provided substantial evidence to the City to find that both of those approval criteria have been met. Therefore, Sherwood School District respectfully requests that the City approve this extension.

Very truly yours,

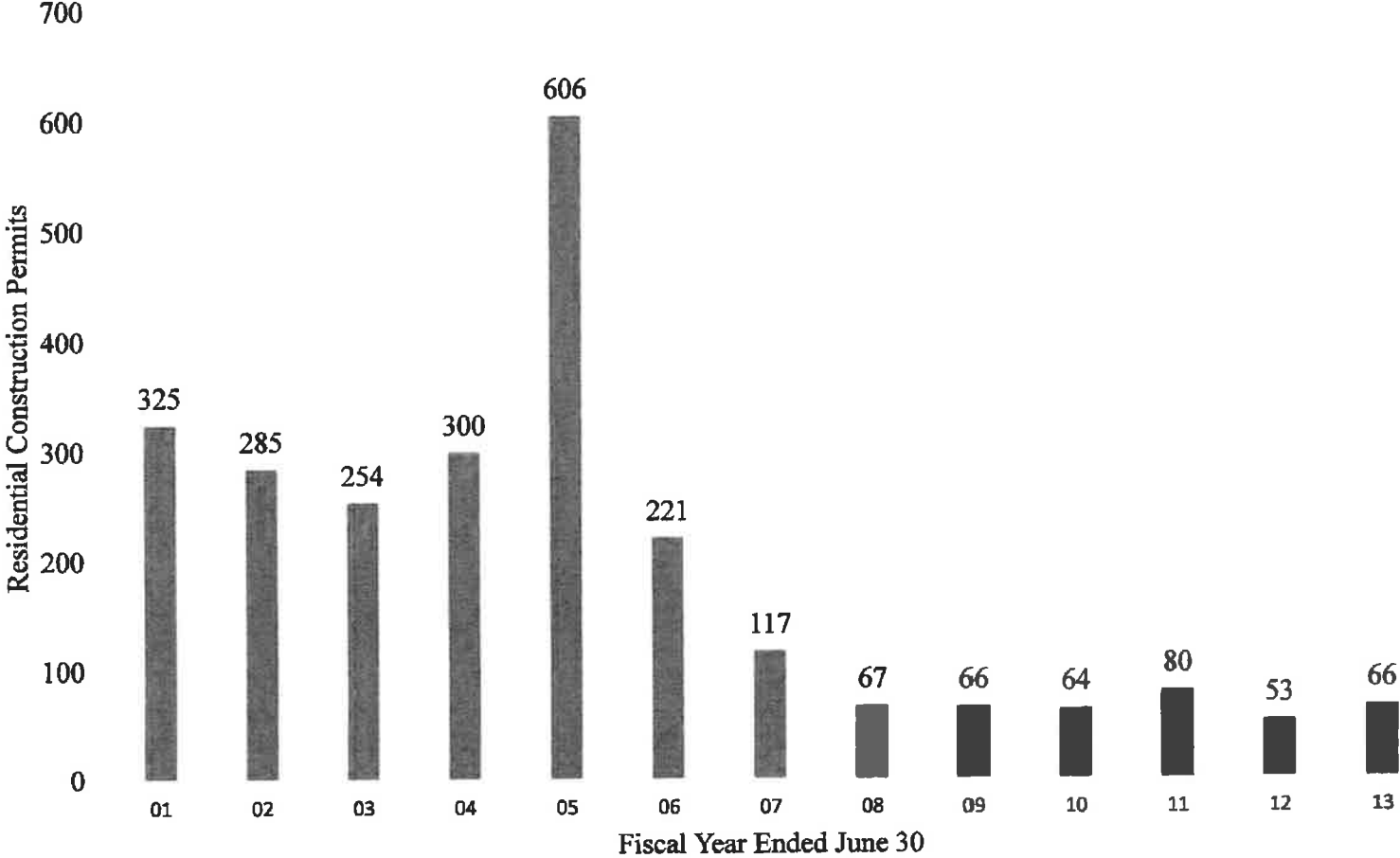


Sue Hekker
Chair, Board of Directors

Attachments

Cc: Joseph Gall, City Manager, City of Sherwood
The Honorable Bill Middleton, Mayor, City of Sherwood
The Honorable Linda Henderson, Council President, City of Sherwood
The Honorable Matt Langer, Councilor, City of Sherwood
The Honorable Dave Grant, Councilor, City of Sherwood
The Honorable Bill Butterfield, Councilor, City of Sherwood
The Honorable Krisanna Clark, Councilor, City of Sherwood
The Honorable Robyn Folsom, Councilor, City of Sherwood

**City of Sherwood
Residential Construction Permits
Fiscal Years Ended June 30
2001 through 2013**



Job No.: SHD-23

Date: October 10, 2014

To: Phil Johanson – Sherwood School District

From: Ben Austin, P.E.
Kim Shera, P.E.



Project/Subject: Area 59 Reimbursement District Time Extension

Fax - Number: _____; Number of pages _____
(If you did not receive the correct number of pages, please call 503-221-1131)

E-mail Mail Hand Deliver Interoffice

The intent of this memorandum is to document the ongoing validity of the Area 59 Reimbursement District (Sherwood Resolution 2008-011) as it relates to the remaining useful life of the public improvements and continuing benefit to subject properties. Based on our review of the improvements it is our opinion that the improvements have remaining useful life and are a continuing benefit to future development of the subject properties.

Consistency with Current City Plans

HHPR reviewed current City planning documents to ensure that the public improvements included in the reimbursement district are still valid requirements and represent what a developer would be required to construct as part of a current development application.

Street

The City document that governs streets is the Transportation System Plan. The current Transportation System Plan was adopted June 17, 2014. This document has been updated since the March 2008 adoption of the reimbursement district. Copper Terrace is consistent with the Neighborhood Route classification included in the reimbursement district.

Sanitary

The City document that governs sanitary sewer is the Sanitary Sewer Master Plan. The current Sanitary Sewer Master Plan was adopted July 2007. This document was completed prior to the adoption of the reimbursement district. The reimbursement district included the construction costs associated with a 15" sanitary sewer main and the size and location of the sewer is consistent with the plan.

Storm

The City document that governs storm sewer and stormwater management is the Stormwater Master Plan. The current Stormwater Master Plan was adopted July 2007. This document was completed prior to the adoption of the reimbursement district. The reimbursement district

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included the construction cost of a regional stormwater facility which is consistent with the plan.

Water

The City document that governs water is the Water System Master Plan. The current Water System Master Plan was adopted August 2005. This document was completed prior to the adoption of the reimbursement district. The reimbursement district included the construction costs of a 16" water main in Copper Terrace, an 8" watermain in Nursery Way and a 12" watermain in Edy Road which is consistent with the plan.

Consistency with Current City Standards

HHPR reviewed the current Sherwood City Engineering Design and Standard Details Manual and Clean Water Services Design and Construction Standards to ensure that the improvements included in the reimbursement district are still valid requirements and represent what a developer would be required to construct as part of a current development application. The current version of the City Engineering and Design and Standard Detail Manual was adopted in April 2010. The current version of the Clean Water Services Design and Construction Standards was adopted in April 2007.

Street

The design manual has been updated since the adoption of the reimbursement district. However, we reviewed the current manual for consistency in roadway cross section and pavement section. The street section for Copper Terrace meets the current minimum standard section for a neighborhood route and meets the current minimum standard pavement section.

Sanitary

The City Engineering Design and Standard Drawings Manual has not had significant revisions that would trigger development conditions of approval that would require modifications to the system to comply with current standards. The Clean Water Services Design and Construction Standards have not been updated since the adoption of the reimbursement district and the sanitary sewer system is consistent with these standards.

Storm

The design manual has not had significant revisions that would trigger development conditions of approval that would require modifications to the storm sewer infrastructure to comply with current standards. The Clean Water Services Design and Construction Standards have not been updated since the adoption of the reimbursement district and the storm sewer system is consistent with these standards.

Water

The water main was designed to Tualatin Valley Water District (TVWD) standards, who operated the City's water system at that time. The City has since taken over the system and adopted standards. The design manual did not make significant revisions from the TVWD standards that would alter the performance of the water system infrastructure or trigger



development conditions of approval that would require modifications to the system to comply with current standards.

Current Condition of Infrastructure

HHPR conducted a site visit to visually review the improvements that are available by surface inspection. Based on this site visit it is our opinion that the infrastructure is operating as intended and with standard regular maintenance has remaining useful life for future development. We would not anticipate upgrades to these facilities to be required as development conditions of approval and therefore the original value of the improvements is still valid. The following photos document the current condition of the surface improvements.



Photo 1: Looking south on Copper Terrace from Edy Road





Photo 2: Looking south on Copper Terrace south of Nursery Way



Photo 3: Looking south on Copper Terrace to Cereghino Lane

