

**CITY OF LA VISTA**  
**PLANNING COMMISSION MINUTES**  
**OCTOBER 22, 2009**

The Planning Commission meeting of the City of La Vista was convened at 7 p.m. on Thursday, October 22, 2009, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Andsager, Kramolisch, Hewitt, Circo, Gahan, Alexander, and Nielsen. Absent: Horihan. Also in attendance was Marcus Baker, City Planner and John Kottmann, City Engineer, and Ann Birch, Community Development Director.

Legal notice of the public meeting and hearing was posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission and a copy of the acknowledgement of the receipt of notice is attached to the minutes. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

**1. Call to Order**

The meeting was called to order by Chairman Krzywicki at 7:01 p.m. Copies of the agenda and staff report were made available to the public.

**2. Approval of Meeting Minutes – September 17, 2009**

The minutes of last weeks meeting on September 17, 2009 were not ready for approval.

**3. Old Business**

None

**4. New Business**

**A. Sanitary & Improvement District (SID) #59, Sanitary & Improvement District (SID) #214, and adjoining miscellaneous lots.**

i. Staff Report: City staff has provided a notebook describing the annexation schedule, as required by State Statute; also provided are maps, legal descriptions, statistics, improvements, and other analysis of the SIDs and adjoining miscellaneous lots that are proposed for annexation into the City of La Vista. In addition, the notebook has a plan for extending city services to the proposed land for annexation.

This annexation would include properties which would in-fill or be contiguous with existing city boundaries. The proposed annexation would be consistent with the adopted Annexation Plan within the Comprehensive Plan.

Staff recommends approval of the proposed annexation to City Council.

ii. Public Hearing:

Malmquist motioned to open public hearing. Gahan seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Gahan, Circo, Nielsen, Alexander and Hewitt. Nays: None. Hearing opened at 7:06 pm.

Cliff Herd, Chairman of the SID 59 was present and with him was Mike Price, Clerk of the SID 59. SID 59 is principally an industrial, there have no residences, so totally industrial. They estimate that they are 60% built out and there are number of lots that are still available in the Brook Valley north area and the Brook Valley II area.

There are a number of things that they wish to bring to the Planning Commission's attention in conjunction with this annexation. Historically, the developer of the district had considerable problems and ended up going through bankruptcy. There were many cases of special assessment problems that the district has been in litigation with for approximately 6 years, that are still on-going. We have two cases that were just ruled upon in District Court in Sarpy County, late summer. They were ruled in favor of SID 59 and other defendants, claimants on their behalf and the parties in question have appealed and it is in front of the State Supreme Court. He heard this afternoon that the two cases will be combined and will be heard at the Nebraska Supreme Court level.

In keeping with the problems in special assessments, one of the properties this summer came up for sheriff's sale for lack of payment of real estate taxes. We had incurred this problem when one of our other special assessment lawsuits in which the property in question was sold at sheriff's sale and we really had to fight to get the special assessments reinstated again. Supposedly, once it clears sheriff's sale, special assessments go away. Well, the second owner subsequent to that realized that we could undue the sale, we could go back and do all those things. And, they did settle out and pay the special assessments finally. But, we got less than 100% of the originally assessed special assessments.

In the case of the one this summer, the sheriffs sale, it is Lot 25, Brook Valley II it is located almost on the southwest corner, the second lot in on the southwest corner of Brook Valley II. We had approximate total of \$120,000 due in special assessments in interest that had been incurred since the specials were levied in 2004. There were approximately \$30,000 worth of costs in the actual, what he would call the general real estate taxes and attorneys fees that the person who purchased the tax sales certificates was requesting and would have been paid through the sheriffs sale. So, the SID attended the sheriff's sale to perfect the special assessments and interests. They ended up bidding on the property and acquiring it. The plan is not to keep that property. It is approximately 3 acres. They have had to pay the current real estate taxes on it. They had to mow it per La Vista orders. And, they also had some grading costs. From the day they owned it they insured it for liability purposes so that they would not run amiss of anything if something happened to somebody on the property.

All this is to make the commissioners aware of some of the unknown things that the SID Board of Trustees has been dealing with on the long term.

There still is an unresolved inter-local agreement for the north part of 108<sup>th</sup> Street. This was a construction that was completed many years ago and they tried a couple of times unsuccessfully through the attorneys to resolve the issue with Sarpy County but have gotten no results yet. So, that is an unresolved issue, they still owe the county approximately a half a million dollars that was the SIDs contribution to that north completion of the 108<sup>th</sup> Street.

They have been working with the owners of two properties in Brook Valley II relating to private storm sewer issues on those two properties. They are doing that because of the complaints that the SID received from one of the property owners of lack of good runoff control. He doesn't believe that he knew that they had a joint privately owned storm sewer that they needed to maintain. There was never an agreement between the two parties as far as how the maintenance costs would be shared that the SID was aware of. They have been working with the two property owners to try and resolve the issues.

We have also recently, the south part of 108<sup>th</sup> Street was finished. That was the portion of Brook Valley south that was annexed some years back. That particular thing that they were trying to get a handle on, and still haven't resolved, is that they don't know where the special assessments that would have been due SID 59 in the City of La Vista, how those things got washed out in the lot split and the condemnation that occurred with the acquiring of the property along 108<sup>th</sup> Street. This was Lot 42, a lot that was extensively affected by the condemnation and the county ended up acquiring a good portion of it. So, that is still another factor that needs to be.... It was for the overpass and south to Giles Street.

They called attention to a couple of things in the annexation notebook that he had seen for the first time tonight.

He believes the numbers here relate to the fiscal statement that were completed fiscal year ending 6/30. Page 6, Section 5, sub-point 3 (the book) refers to a \$3,000,000 in cash that existed on the books. They don't believe it is that high. They have since the fiscal year end, they have retired some more bonds, that were high interest bonds and in this, unknowing that the annexation was coming, they had a tremendous opportunity to lower the interest rate on some of the bonds so they paid down some of them and refinanced the bonds for the SID 59, leaving the district in much better financial shape from the standpoint of total indebtedness.

There is a civil defense siren that they maintain that is located in the district. Repairs were made as recently as this spring to it when it wasn't responding. It has been an item that the SID has been involved with for some time.

Price commented that he is personally looking forward to the annexation as a vacation from all of his work. In summary, he thinks the district is in great financial shape and that the city will find that it is overall a good district for it. There still is some debt, and the city knows that, but it is eventually going to pay for itself. It is in really good shape.

It is their hope that after the legal expenses that the district has bore, that the city would continue to make sure that these cases that are pending in front of the Supreme Court run to fruition and that the goal of maintaining the specials and the interest thereon is preserved. We fought for it, we fought for it hard. At different times along the way they had four lawsuits going and to their satisfaction they believe that everything has been done that they can to collect all those and they are getting very close; they are rounding third base, and they are almost approaching home. He would say they are one year away from having pretty much everything resolved but if the annexation goes forward it is the entire city's to contend with.

Herd asked in the presentation that it had been mentioned about a placement of a traffic light in the SID and wondered where it would be located. He was hoping it was where the traffic count was going on at 117th and Giles.

Kottman, City Engineer, indicated that at 117<sup>th</sup> St there had been some on again/off again development proposals for some commercial property on the vacant lots along the frontage. If those developments were to occur, he would anticipate the signal would happen sooner there. But it is one of those locations that they will continue to monitor but as such time as traffic signal warrants it would then be considered for a signal. Another location that will be monitored is 108<sup>th</sup> and Brentwood Drive and 107<sup>th</sup> and Giles Road is being studied for a potential signal.

Hewitt stated that some of the cash on hand had been used to retire some high interest bonds and as she looks at the financial information it shows cash on hand as \$2,000,000, is that more accurate. Herd said that some of the special assessments had been paid and he doesn't have a current balance. He tried to maintain \$1,000,000 in their construction fund if the inter-local agreement went through and they knew they were going to have some special assessments coming in. Based on the bond fund levy and everything else they felt they were in good shape. He would estimate their cash on hand as about \$1,500,000 now.

Hewitt asked what the existing bonds payable is after the pay down. He thought maybe 3.5 – 4. They are at a much lower interest rates now.

Kramolisch motioned to close public hearing. Alexander seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Gahan, Hewitt, Circo, Nielsen, and Alexander. Nays: None. Hearing closed at 7:20 pm.

Circo asked if the city attorney takes over the law suits, or how quickly does this take place. Birch said that any obligation of the SID would become an obligation of the city. The city could choose to do something different. We will provide the information to city council.

Malmquist stated the belief that staff feels comfortable with the information tonight. Birch said that some the information given the city was aware of, but it will all be provided to the city attorney and the finance director.

Malmquist asked since the SID had gotten rid of some of the cash on hand to decrease their debt, and gotten additional bonds at a lower rate this could become more positive than the cash flow information than we had. Birch said it would all be reviewed by the finance director.

Krzywicki clarified that using SID 59 as an example, on the statistics sheet it says the SID levy is 28 cents and the cities levy including debt is 52 cents. So, that normally means that they actually are paying more taxes for that portion of expenses on each property.

Kramolisch commented that even though that area may pay higher taxes they will be provided all the services of La Vista.

iii. Recommendation: Gahan motioned to recommend approval of the proposed annexation of SID 59, SID 214 and the adjoining miscellaneous other lots subject to approval of the finance director and the litigation to be reviewed by the city attorney and the other lots. City Council. Malmquist seconded. Ayes: Krzywicki, Gahan, Alexander, Andsager, Hewitt Malmquist, Kramolisch, Nielsen and Circo. Nays: None. Motion carried.

This proposed annexation is tentatively scheduled for the City Council agenda of November 17, 2009.

**5. Comments from the Floor**

None

**6. Comments from the Planning Commission**

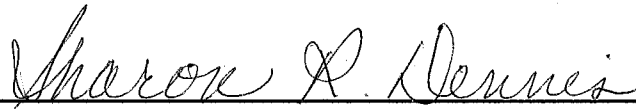
Baker announced that the Planning Commission is invited to attend a Vision 84 Workshop on November 18 at 6 p.m. at La Vista City Hall.

Nielsen was congratulated on the birth of his baby.

**7. Adjournment**

Hewitt motioned to adjourn. Circo seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Gahan, Nielsen, Alexander, Circo and Hewitt. Nay: None. Motioned carried. Meeting was adjourned at 7:29 p.m.

Reviewed by Planning Commission: John Gahan

  
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Recorder

  
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Planning Commission Chair

11-19-09  
Approval Date