

AMENDED

AN AMENDMENT TO A RESOLUTION establishing the cost-sharing policies for neighborhood capital improvement projects, and establishing how petitions for such projects are processed by the Fort Wayne Board of Public Works and/or Board of Stormwater Management.

RESOLUTION #97-12-15-10-1

WHEREAS,

The Board of Public Works and/or Board of Stormwater Management of the City of Fort Wayne, Indiana, has the legal authority and responsibility to construct and maintain the City's public infrastructure and to establish property-owner participation procedures for the payment of neighborhood capital improvements;

NOW THEREFORE,

the Board of Public Works and or Board of Stormwater Management hereby adopts the following policies and procedures through which citizens may petition for neighborhood capital improvements and pay for those improvements:

I. THE PETITION PROCESS

- A. PETITIONS:** Citizens who desire the City of Fort Wayne to make infrastructure improvements in their neighborhood should petition for those projects directly to the Board of Public Works. All projects are subject to the availability of pertinent funds.
- B. SIGNATURES REQUIRED:** Any petition requesting improvements which affects property owners shall require such property owners to pay a portion of the cost of the improvements. Petitions must be signed by at least 51% of the affected property owners, except where different percentage amounts are set forth below. "Affected property owners" are defined as those owning property adjacent to the improvement project.

The minimum level of signatures on the petition is established as an indication that the project is supported by a majority of the affected property owners. Petitions are valid for three (3) years.

- C. ENGINEERING EVALUATION:** Petitions must be reviewed for improvement need by engineering staff - The Board of Public Works and/ or Board of Stormwater Management will determine proceeding with improvement based on engineering evaluation of need.
- D. PUBLIC HEARING:** After a petition has been filed and City Engineers have prepared a cost estimate for the project, along with an estimate of what each property owner's assessment will be, a public hearing will be held to inform property owners of project details. Property owners will be notified by mail of the public hearing.
- E. REMONSTRANCE:** If at least 51% of the affected property owners, who oppose the project, sign a remonstrance petition and file it with the Board of Public Works within 10 days of the initial public hearing, the project will be canceled.
- F. RE-PETITIONING AFTER A SUCCESSFUL REMONSTRANCE:** After a successful remonstrance of a project, citizens may file a new petition for the project no sooner than six (6) months after the remonstrance was filed with the Board of Public Works. This six-month requirement shall be

waived if the new petition changes the project's scope (i.e.: reducing the geographic area).

II. COST SHARING GUIDELINES FOR SPECIFIC KINDS OF PROJECTS

A. STREET: NEW, RECONSTRUCT, OR UPGRADE; CURB: NEW, RECONSTRUCT; SIDEWALK: NEW, RECONSTRUCT

GUIDELINES:

Property owners within the project's limits will pay 60% of the cost of the sidewalk, curb, yardwalks and driveway approach improvements adjacent to their property, with assessment based on lineal footage; the City will pay 40% of these costs. Drive approach work required because of the project will be assessed based on square yardage of the drive approach. Improvement costs shall include engineering, the labor and material for installing the new item(s), removal of old item(s), excavation, bedding, restoration, engineering, inspection and other expenses associated with the project, such as drainage improvements, when necessary.

Property owners living on corner lots will pay 60% of the less side lineal footage of the property. The City will pay for 40% of the less side lineal footage of the property and 100% of the larger side lineal footage of property.

The funding of petitions requesting "street reconstruction" depends on whether the existing street is already "improved" or "unimproved", as determined by the Transportation Engineering Services Department. Generally, an "improved" street was built with subsurface drainage and curbs. Reconstruction of an improved street is funded 100% with City funds, when available. An "unimproved street" is generally built with no drainage provisions and no curbs. Reconstructing an unimproved street means the street will be built to "improved" street standards. In this case, affected property owners will pay 60% of the overall project's costs, and the City will pay 40%.

The Board of Public Works approves projects based upon the recommendation of City engineers and when City funds become available. At the request of property owners, projects can be funded 100% by property owners.

B. STREET LIGHTS: All requests for street lighting must come to the Board of Public Works in the form of a petition signed by 60% of the property owners in the city block or blocks described in the petition (per IC 36-9-9-3b). Funding options for street lighting petitions are as follows:

At intersections standard residential street lights will be funded 100% with City dollars, with project priority determined by the Board of Public Works through its Traffic Engineering Department. Standard residential street lighting includes 30' embedded aluminum poles with HPS Cobra Head fixtures on mast arms or 16' embedded posts with HPS Town and Country fixtures. Wiring will meet the petitioning neighborhood's existing covenant conditions.

Additional standard residential street light improvement projects shall be funded 60% by property owners within the project's limits, and 40% by the City. Property owners' assessments will be based on lineal footage, unless the petition specifically requests that the property owners' share be divided evenly among all property owners.

If residents desire residential street lighting that is neither 30' foot embedded aluminum poles with HPS Cobra Head fixtures on mast arms or 16' embedded posts with HPS Town and Country fixtures, residents are responsible for 100% of the cost of the fixtures over the cost of standard residential street lighting as described above. If the desired street lights are neither 30' embedded aluminum poles with HPS Cobra Head fixtures on mast arms or 16' embedded posts with HPS Town and Country fixtures then a maintenance agreement for the replacement of non-standard fixtures, poles and posts must be established between the responsible party and the Board of Public Works.

The Board of Public Works approves projects based upon the recommendation of City engineers and when City funds become available. At the request of property owners, projects can be funded 100% by property owners.

STREET LIGHTS IN NEWLY-ANNEXED AREAS: Street lighting annexation commitments for newly-annexed neighborhoods will be fulfilled exclusively with 30' embedded aluminum poles with HPS Cobra Head fixtures on mast arms or 16' embedded posts with HPS Town and Country fixtures with wiring that meets each neighborhood's wiring covenant conditions. Newly annexed property owners who desire more street lights than an annexation commitment requires must petition for the additional lighting, or ornamental lighting, in accordance with the policies described above. The possibility of such a petition will not preclude installation of street lights required by a City annexation commitment. However, the City staff will work with neighborhood associations/petitions to avoid installation of unwanted types of street lights if a successful petition effort is likely.

Newly annexed neighborhoods which do not want any street lighting installed by the City per City annexation commitments may petition the Board of Public Works to prevent the installation. Such a petition may request no lights for a portion of the neighborhood or for the entire neighborhood. Regardless, however, such a petition must be signed by two-thirds (2/3) of the property owners in the entire neighborhood association being annexed. While these petitions may be considered and approved, neighborhood streets intersecting with collector or arterial streets shall comply with the terms of the City's annexation commitment. The Board of Works always reserves the right, based on public safety concerns, to install lights where necessary.

The Board of Public Works approves projects based upon the recommendation of City engineers and when City funds become available. At the request of property owners, projects can be funded 100% by property owners.

- C. ALLEY RECONSTRUCTION:** Property owners within the project's limits will pay 75% of the cost of the improvements from alley center line to property line adjacent to their property, with assessments based on lineal footage; the City will pay 25% of these costs.

The Board of Public Works approves projects based upon the recommendation of City engineers and when City funds become available. At the request of property owners, projects can be funded 100% by property owners.

- D. WATER PROJECTS:** When petitions for water mains are received, Water Engineering shall prepare a conceptual design for local water mains to serve the petitioners. The cost of the conceptual design shall be estimated and allocated equally to the properties affected. Water Engineering shall also collect other information pertinent to the project (petitioner alternatives, cost to other area residents, cost to the Utility and availability of funds). Water Engineering shall then present the petitioner's options to the Board of Public Works and identify the financing option Water Engineering determines is most feasible. If the Board determines that Barrett Law funding of a water main is the most feasible, then they shall order Water Engineering to proceed with the preparation of detailed drawings, specifications and a resolution ordering the installation of the local water main. Other financing options include up-front property owner payment or, very rarely, utility revenue with long-term property owner reimbursement.

The property owners will pay for 100% of the main installation if they do not currently have City water. If oversizing of said main is required by the City, the City will pay for that portion of the water main that represents the oversizing. The City pays full cost for maintenance and replacement of existing public lines.

- E. SANITARY SEWER PROJECTS:** When petitions for sanitary sewers are received, Water Resources will prepare a conceptual design for a local sewer system to serve the petitioners. The cost of the conceptual design shall be estimated and allocated to the lots/units affected by the proposed system using the method established in IC-36-9-39. Water Resources shall also collect other information pertinent to the project (petitioner alternatives, cost to other area residents, cost to the Utility and availability of funds). Water Resources shall then present the petitioner's options to the Board of Public

Works and identify the option Water Resources feels is most feasible. If the Board determines that Barrett Law funding of a sanitary sewer project is the most feasible, then the Board shall order Water Resources to proceed with the preparation of detailed drawings, specifications and a resolution ordering the installation of the local sewer.

No set percentage of affected property owners is required to petition by Indiana law with sewer projects since, according to IC 36-9-39, the only test for proceeding with a sewer project is whether or not the "special benefits that will accrue to the property to be assessed will be equal to the estimated cost of the works."

Per IC 36-9-39, property owners may appear at the public hearing on the project to remonstrate against the project. The decision of the Board of Works, after weighing the evidence submitted by all parties at the public hearing shall be final.

Expenses associated with the engineering, construction and inspection of the local sewer project shall be allocated to property owners according to IC 36-9-39. The property owners shall pay the first \$6,000 of cost allocated to each unit or lot whether or not connected. The Water Pollution Control Utility shall pay the remainder of the engineering, construction and inspection costs. No project shall proceed until funds have been budgeted for the Utility's share of the costs.

Property owners shall pay area connection and other applicable special fees when they apply for a tap permit. These fees are not considered to be engineering, construction or inspection costs and shall not be included in the \$6,000 maximum assessment per lot/unit.

The City shall pay full cost for maintenance and replacement of existing public lines and shall assume the maintenance costs for the newly constructed public sanitary sewer lines once the construction project has been inspected and accepted by the Board of Public Works.

F. STORMWATER DRAINAGE PROJECTS: Upon receiving a petition for stormwater drainage improvements, Water Resources shall undertake a preliminary investigation and analysis of the situation precipitating the petition. The nature and degree of the problem will be determined, as will the affected properties and affecting parties. Components of the drainage system(s) in the area will be identified and evaluated as to their condition, capacity, performance, and adequacy. A conceptual design will be developed, identifying and differentiating local or lateral component improvements to serve the petitioners and any trunkline drain improvements that will also be necessary.

A local and/or lateral drain shall be defined as a drain that serves as an outlet for a local watershed or for a subbasin within a neighborhood or subdivision. An area trunkline is a drain that outfalls multiple local or lateral drains.

Expenses associated with the engineering, construction, and inspection of local and lateral drain improvement projects shall be allocated to property owners according to IC 36-9-39. The property owners shall pay the first \$4,000.00 of cost allocated to each lot/unit to be drained. Water Resources shall pay the remainder of the engineering, construction, and inspection costs. There may be instances where the Utility considers oversizing a local line in anticipation of converting this line to an area *trunkline* sometime in the future; when this is the case, the property owners will be responsible only for the drain costs associated with their subbasin capacity needs, and the Utility will fund any additional costs due to the oversizing. No project shall proceed until funds have been budgeted for the Utility's share of the cost.

The basis for proceeding on a petitioned sewer or drainage improvement project according to IC 36-9-39 is not the percentage of affected property owner signatures on the petition, but, whether or not the special benefits that will accrue to the property to be assessed will be equal to the estimated cost of the works.

Per IC 36-9-39, property owners may appear at the public hearing on the project to remonstrate against the project. The decision of the Board of Stormwater Management, after weighing the evidence submitted by all parties at the public hearing, shall be final.

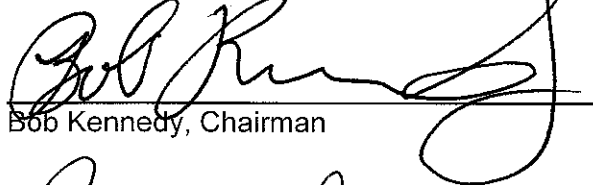
The City shall pay the full cost for maintenance and replacement of existing public lines and shall assume the maintenance costs for the newly constructed public storm sewer lines once the construction project has been inspected and accepted by the Board of Public Works.

- G. SOUND BARRIER WALLS, DECORATIVE COLUMNS, LANDSCAPING:** Petitioners are responsible for 100% of the facility cost. Proposed facilities that conflict with existing or future transportation/utility infrastructure may be rejected by the Board of Public Works. The Board will administer the design, construction and maintenance of a facility located in the public right-of-way. The petitioner will deposit funds in an amount determined by Board in an escrow account with the City before work proceeds. Sufficient funds will be dedicated to the City to maintain the facility after construction. If the facility is not adequately maintained or if the facility conflicts with transportation or utility infrastructure it shall be the Board's option to remove the facility from the public right-of-way.

III. MISCELLANEOUS

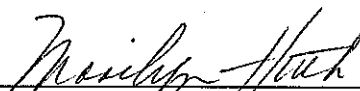
- A. EXCEPTIONS:** Exceptions to the standard petition process and cost-sharing policies include projects funded by federal or state community development or economic development grants, or as requested by the Mayor or City Council representatives with available alternative funding. The Board of Public Works may consider any project on an individual basis and may make any adjustments that the Board deems necessary to complete a project.
- B. CALCULATING PROJECT COSTS:** Property owners will be assessed based on the guidelines described in the above categories. Also, any alley approaches that are being replaced, corner wing-walks that are being replaced or drainage structures that must be repaired as part of any project will be paid 100% by the City.
- C. ANNUAL REVIEW:** The Board of Public Works should review these policies and the petition procedure every year by January 31 and amend them, as the Board deems necessary.

BOARD OF STORMWATER MANAGEMENT


Bob Kennedy, Chairman


John Suarez, Member

Matthew Wirtz, Member

ATTEST: 
Marilyn Huth
Clerk

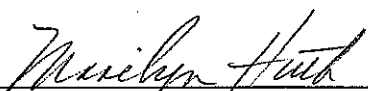
BOARD OF PUBLIC WORKS

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John Suarez, Member



Kumar Menon, Member

ATTEST: 
Marilyn Huth
Clerk