

**Bruns**-We will open up on our regular agenda and go to our public hearing, a change to the final assessment for improvements of Sixth Street. And I'll read our engineers introductory. In accordance with Minnesota Statue 429, the City is required to hold a public assessment hearing to correct any errors or (unintelligible) in the assessments. The public hearing was held on February 6<sup>th</sup> 2012 to discuss proposed improvements. This assessment hearing is not to discuss whether or not the project should have been constructed or how it was accomplished. Complaints concerning construction or construction procedures are not to be discussed at this hearing. These complaints should be made with the city or (unintelligible). Property owners will be handled on an individual basis in order, in order of the sign-in sheet. So if you have something to say please sign in on the sheet. If you have any questions on your assessment please sign the sheet. And I'll turn it over to our City Engineer Jim Schulz.

**Schulz**-Thank you Mayor. Um, again this is the assessment hearing for the underground utility and street improvements of Sixth Street. The purpose of my portion of the hearing is basically to review the assessment policy that the city has, review the project costs; then hear questions and comments regarding the individual assessments. And again once we get to the end of this presentation, um and the other staff presentation we'll open it up to questions in the order of the sign in sheet. The reason for the improvements um, basically is a few things the sewer is deteriorated, the water main was undersized south of Michigan and sanitary sewer was undersized south of Michigan and also deteriorated um, as well as holes in (unintelligible) plate between Minnesota and Michigan. This is a, this photo is an example of a televised line prior to the construction basically the pipe had holes in it, and at risk of collapse. So again, to reiterate the summary of the project area Minnesota Ave or Sixth Street from Minnesota Avenue to south of Michigan this stretch was street, water main, storm sewer, curb and gutter and side walk. This stretch was the street, sidewalk, um, curb and gutter and portions of it um, water and sanitary sewer and storm. The assessment methodology, um, for the policy, these are the rates that will be assessed with project costs. So sanitary sewer will be at one hundred percent of the cost that sanitary sewer main and sewer service from the main to the property at hundred percent the water main at hundred percent water service from the main to the property at a hundred percent storm sewer assessment twenty percent of the cost curb and gutter fifty percent street at fifty percent driveway apron at a hundred percent and then sidewalk at fifty percent. So (unintelligible) that assessment methodology to calculate an assessment rate for each of those items and in summary the rates are the costs to construct divided by the footage or units depending on if it's a unit item such as a sewer service or a water service or the lineal feet of the sewer main or water main and then multiplying that rate by the percentage that would be assessed. So if it's a hundred percent if the rate is fifty dollars at a hundred percent the rate would be fifty dollars if its fifty dollars and it's fifty percent the rate would be twenty-five dollars. This is the list of the then calculated rates that we have for (unintelligible) what I want to do here in comparison this is the actual rate assessed and this is the rate that was presented at the public hearing of February 2012. So for sanitary sewer the estimated rate in February of 2012 (coughs) excuse me, 2012, is forty-eight dollars. This is what's actually being assessed. Generally all of the rates came in lower than was estimated with the exception of items relating to concrete work primarily driveway aprons, um, curb and gutter and sidewalk, those did increase above what was estimated in February of 2012. Based on bid prices. So then we have we calculate the rate based each of those items constructed and then we have to calculate the assessable footage that that rate is applied

to, so this can be a little bit confusing but in general the items such as street curb and gutter and storm sewer are assessed against both the side lot of the property and the front lot and then utilities are only assessed against the front lot and the front lot can be defined as the short side of the lot so in this particular case the front lot is ninety feet and the side lot is 130 feet this is a corner lot and that's the only place where a sidewalk applies, any interior lot the front would just simply be the frontage of lot that's abutting the project this would be a theoretical corner lot this is the side lot I'm sorry the front lot and then this is the side lot. Because this is the short side defines the front the long sides defines the sidewalk and again in this particular case the side lot, front lot and then front lot. So in these cases with a hundred and thirty foot side lot one third of that would be actually be assessed against items such as street, storm sewer, curb and gutter. So the actual footage assessed on a side lot would be one hundred thirty divided by three for 43.33 feet. In this case where the frontage is abutting here the side lot doesn't come into effect because the project did not occur here it was only here so the amount assessed would be ninety feet. And this corner lot where its side lot is assessed, again 100 feet divided by three feet gives you 33.33 feet. And then for the um, utilities themselves again are only assessed against the front lots so even though this particular this represents the sanitary or water main in the utility and a service in schematic here. So this lot is served by this improvement but we assessed ninety feet which is the front lot, in this case this lot is served off this improvement so we assessed ninety feet of the front lot. Interior lots again with footage abutting a hundred and thirty feet for utilities a hundred feet for utilities in this particular case there's no service from utilities received, therefore there's no front footage assessed for services in this theoretical case water and sewer would come off of avenue 'Y'. So, I guess just to sum it up for street, storm sewer, curb and gutter we assessed front lot and side lot and then side lot is at a reduced rate. For utilities we only assessed the front lot which is again the short side of the lot and it is based on um, different properties actually benefited by the improvement. So if you have no utilities were placed or served off the improvement and we would not assess utilities if it served we would assess utilities again based on the front lot. So, this one is actually an example utilizing the numbers for lot 'A'. So we have the sanitary sewer, the rate multiplied by the quantity of the front lot ninety feet for utilities, (unintelligible) sewer, water main gives us the totals for storm sewer, curb and gutter and street one third of that side lot because of the improvement is abutting the side lot so 33.3 feet for those items. And then the individual items each if it received the sewer service or water service it had driveway apron or sidewalk those items would be assessed based on the actual square footage or unit, number of units that it actually received. Multiplying the rate by the quantity gives the total items subtotal so that theoretical example total of assessment calculated out to sixteen thousand one hundred thirty-nine dollars and twenty-two cents. So for this project then adding up the total cost for each parcel for each of these items these were the total amounts proposed to be assessed for sanitary sewer services, water main, street, curb and gutter etcetera. These were the total costs so, the city share is basically the total cost of those items less the assessable cost; the balance is the cities share. So in summary the city share of this project amounts to two hundred fifty thousand two hundred seventy dollars and twenty-eight cents the actual amount proposed to be assessed is one hundred thirty-six thousand one hundred forty-seven dollars and eighty-four cents for a total project cost of three hundred eighty-six thousand four hundred eighteen dollars and twelve cents. That, I guess is in a nut shell as far as the proposed methodology of the assessment and the way they were calculated and the

rates costs of assessments I guess as far as the procedure for payment to pay would be I would address them.

**Bjorklund**-In council resolution the council has deemed it a ten year assessment payback at 4.4 percent interest from the date of adoption. You then pay that assessment in full any time prior to the certification to the county auditor, which would be done by the third week in December. No interest if you pay in full within thirty days of the adoption; so if the Council adopts this you would have thirty days in which to pay the assessment in full without any interest. This can be paid at any time at the City Clerk's office throughout the duration of the assessment. If you wish to pay it in full a year from now or two years from now it can be calculated and finalized (unintelligible).

**Bruns**- Any comments? In regards to the assessment?

**Schulz**-We go by the list then. Again, I guess if it's a specific question regarding the method of calculation, the numbers used you can probably address those questions to me. If you have an individual question you can either ask it at this point publicly after the questions are done, I'll be willing to answer those specific questions afterwards (unintelligible). So starting again first name on this list is Terry Freeman, Jon Stewart, Lara Stewart, John Ekholm? Or Jan?

**Moore**-Jane.

**Schulz**-Jane Ekholm, Steve Ekholm, Warren Scouton, Phil Bauerly.

**Phil Bauerly**-I just had a real basic question. How is this determined as a special assessment and not part of the City's responsibility? What's the difference between (unintelligible) funds and water bills that sort of thing?

**Bruns**-The city had (unintelligible) effort had to set up an assessment policy and I believe distribution of that changed if I remember correctly. All streets, water, sewer, water (unintelligible) and stuff is based upon (unintelligible) assessment policy was set up and recently re-done and the system (unintelligible).

**Schulz**-I guess I can address some. Nobody at cities like assessment, assessing. it's not that it's that it's necessary in some regards and the reason for that; one issue is tax exempt parcels so they don't pay general levy taxes if there's an improvement that's abutting tax exempt parcels. One method to recoup that revenue is assessment. So if the city did not assess then essentially the individual tax payers (unintelligible) be paying more because it's (unintelligible) concentrated to a smaller number of properties smaller number of people. So that's one reason that cities assess. Another reason to assess is that the cities bonding for a project, there's typically a certain minimum amount that you have to assess is twenty percent against the base of the parcels, that's the minimum, in order to not go to a general referendum. So if the city puts it bonds and puts it all on general levy then it has to go to a referendum, that's another reason a why a portion of it is assessed. Another reason that you'd want to assess is that basically standard gain for the properties that are benefited by the improvement. So for example if it was not assessed there would be no incentive not to be asking for a replacement of your street you know, prior to its deterioration. So one property might get a, there's no, there's no, I guess no saying

that your street replace every ten years as opposed to another street gets there's street replaced every forty years for whatever reason the policy (unintelligible). And then the other point to make regarding assessments is that it's generally a zero sum gain in the fact that if your assessments go down your levy or user rates goes up. So and again there's, I guess those are some of the reasons to assess. As far as the three main sources of money; general levy, user rates and assessments is the revenue to pay for projects on the city side.

**Bruns-** Quite honestly that's why this council last year (unintelligible) as far as sales tax (unintelligible) used for infrastructure and streets. And it appeared before both houses and the state (unintelligible) last winter and it did not pass, (unintelligible) it's still alive (unintelligible) percent of the voters voted in favor of sales tax and not the state (unintelligible). It's not fair that it's not just you the owner the business owner use that street there's a lot of other people that are from out of town that use that street it and that's why we tried to (unintelligible).

**Shulz-Laurie.**

**Laurie Baurerly-** I don't have any questions yet, but I might, when the questions are done, so.

**Schulz-Ken Bresley.**

**Bruns-**No he has no comment.

**Schulz-Jason Pederson.**

**Jason Pederson-**The board has (unintelligible) my written objection, correct? I'm not going to go through all of the comments, but I think that the procedures have not been followed for a number of reasons. And one of the questions I have first, allegations that I raised in my written objections is that one of the requirements of number 429 in this February 2012 meeting that you're talking about, I didn't receive notice of it and it's interesting because my property has one building but there's seven separate parcels. So I didn't receive any notice of that. And the other thing, I don't have the exact date, but I did attend the preconstruction meeting that was like a week prior to construction, in May of 2012. Interestingly, I didn't have notice for that either, other landlords on Sixth Street called me and said 'are you going to the meeting tonight?' And I said 'what meeting?' So it's a little frustrating that's not a mistake that was made once, it was a mistake that was made seven times, twice. But my other issue is the statutes pretty clear in what needs to happen in preconstruction, and from what I can tell, unless you have information to the contrary, this (unintelligible) was planned to all take place before we had any notice of estimated cost, estimated cost per unit, how it would be assessed per unit, and also even the nice presentation that you just did, I didn't see anything that had any market value approach on it. There's very a well (unintelligible) law that (unintelligible) with the second street improvements, so it's not like this hasn't come up before and that's why it's frustrating to me. One of things that I thought would be a response from the City Engineer that we didn't comply within those requirements of 429 because part of it was a sewer assessment, and that's my questions if that is part of the issue of the picture that you showed of the (unintelligible) that is (unintelligible) certainly more than just the twenty parcels on sixth street correct?

**Schulz-**Yeah. I believe so.

**Jason Pederson-**Because what we were told, and maybe in which I didn't have notice of that, that the contract had been granted for the week before construction was I might use the wrong terminology but down at the end of this pipe where the lift station or the pump station between Thrifty White and Christmas point. They said if that fails, it will affect the substation further up the road by holiday and would affect the whole city. So if that's the case why were just twenty parcels assessed? Also if that's the case the City putting a sewer district a number of years ago I think in statute, in the city code 50.33 which says if there's a sewer improvement it needs to be assessed for the entire district, my understanding upon reading the city code is Walkers district is the whole sewer, is the whole city is every piece of property within the corporate charter of the City of Walker is that correct?

**Schulz-** Say that again. Last comment.

**Jason Pederson-**Walker has one sewer district, correct?

**Schulz-**I believe so.

**Jason Pederson-** And I think the ordinance said, it's defined as all the corporate charters all the property of the city, is that correct?

**Schulz-**I'll defer to the attorney on corporate (unintelligible).

**Jason Pederson-** So if this sewer main issue would affect other substations then it would affect the whole city why have were twenty parcels been assessed.

**Schulz-** Twenty parcels were assessed basically(unintelligible) if we do have the items such as lift stations pump sewers and over-sized sewers that handles the larger areas. These are not oversized these were just standard sized pipes than those would be assessed to a district and to answer part of the question again were not looking a normal cost of the project again going back to the cities share sanitary sewer you know this I guess if you want to look at it in some terms is this is what the rest of the cities paying so there is a portion, it's not the full cost that's being assessed.

**Jason Pederson-**Yeah right, but that number that you just identified that isn't being assessed by all of the city just (unintelligible).

**Schulz-** You are the city. You are the city. You are a tax payer so you are paying (unintelligible).

**Jason Pederson-**I'm paying (unintelligible) times, but that's what I'm saying. I don't think with the code that the City codified and defined a sewer district if the city wants to get around those requirements of 429 by saying we don't have to because we set up a sewer district were going to go that route. I don't think they have the ability based upon their own ordinance. And I have reviewed closely based upon their own ordinance that say well were going to exclude ninety some percent of the sewer district and just assess you know twenty parcels I understand what you're saying about the benefit but that's not what the city code wants.

**Wilkening**-Jay I think that what we're saying is (unintelligible) my packet of information in front of me, shows notification by affidavit of service by mail and publication of affidavits. (Unintelligible) It's been published in the paper several times. You know as far as property owner's when you get it by mail, whether you get that or open that I guess, I actually don't (unintelligible)

**Response (unidentified female)**-How is it possible that none of us, we didn't receive anything. This thing is the very first thing we have ever received in our mailbox.

**Jason Pederson**- I have the same PO Box since back in 2000, (unintelligible), taxes, I get every notice, if your suggesting that I got seven letters twice and didn't open them, I think that's ridiculous.

**Wilkening**- On Sixth Street the preconstruction hearing was at the same time as front street my property on front street was identified also, I received notice for it.

**Response (unidentified male)**-None of us did.

**Jason Pederson**- (unintelligible)You talk about the benefit to um, the property, I'd like to see you know previous (unintelligible) of the letters you disclosed because I've never received them for either meeting but you know from the evidence that I had received today did the city or you as the city engineer do anything to the alleged improvement to the market value of the real estate.

**Schulz**- No.in short no.

**Jason Pederson**- (unintelligible) We've had this issue with other streets here. And basically there has to be some improvement to the market value. My example is if my building sat outside the city limits and it was as part of the annexation and I had city sewer and water, I think it's obvious to say, okay, I see an improvement. But I can tell you before you ripped up the street, my toilets flushed the water in my sinks ran and in a very clear case on it says if you just replaced an existing service that's not an improvement. I had bathrooms and sinks and running water in every one of those units prior to the improvement. And Mr. Valen and I discussed that there's a very clear case on that says if you just replace an existing service it's not an improvement so my question is simply replacing the sewer line in the same toilets and the same sink I did before construction, how did that increase my building by twenty thousand dollars?

**Schulz**-I guess at this point, I don't know, we've heard your objection I guess if John wants to address according to that. In short, the analogy would be like when you buy a piece of property and you're an appraiser you might inspect the building and the shingles, and you ask yourself, how many, what is the rate (unintelligible) is it twenty five year shingle when were they replaced were they installed twenty-five years ago so when you look at it and you purchased the property and those shingles were installed or put on a building twenty-five years ago there's some value that you're going to deduct from your offer to account for replacing the shingles in the near future. Even though they may be functional there's functions loss of (unintelligible) because beyond their design life so basically the concept is or the theory is basically is an underlie loss cause rarely we would have the appraiser look at the condition of the utilities nobody asks what condition the pipe, the age of the pipe might be in the appraiser does it have city sewer does it have city water and the investigation doesn't go much beyond that. So basically

the underlies lost are what we are looking at in proposed assessment. We're replacing you know damaged and obsolete (unintelligible).

**Jason Pederson-** Mr. Schulz I understand the concept of your argument, but that's not the law. As the city engineer in somebody that's advising the city, the law is very clear that says they have to do a market increase or market value estimate approach or its void on its face and it appears to me you're making a bold face admission that you looked at depreciation and you looked at other economic factors but you didn't not look at a market value approach. (Unintelligible) It's non-constitutional.

**Schulz-**Well ultimately it comes down to is if the amount proposed to be assessed if the city has a consistent methodology if that amount to be assessed does not exceed the value or basically um, the amount assessed um, does not exceed the value that's added to the property. The methodology for determining that dollar amount is not relevant so basically it's the final dollar amount and as long as the city (unintelligible) typically with market base analysis after you know it is contested.

**Jason Pederson-** I agree with what you're saying but you're missing the law and I'm citing the law. isn't to say I'm not disputing methodology at all the test of leading the special assessment methodology is correct would is if it increased the market value that's all in here it appears as though there was no market value analysis.

**Schulz-** And I guess I'll defer you to the city attorney on those questions.

**Valen-**The council is not circumventing 429, um, so it's a city wide sewer district. As far as notices are concerned the City filed, it does show an affidavit of service by mail on Aquarius Holdings PO Box 1589.

**Jason Pederson-** I have had that PO Box since 2000, and maybe the Brocks, and Cory and Bauerly, and Gus Kaubish and maybe your implying that we didn't receive those notices at which point I can tell you.

**Valen-**I'm not accusing you of lying, you know how a service by mail works.

**Valen-**Service by mail of the two hearings that are required to be done by mail were done at your address and at Kaubishes address and with regard to the Bauerly's is it, it was done in January. I believed and you closed in December. The city clerk looked at the county records and it still showed (unintelligible).

**Unidentified female-**the problem that I have with that is that my husband came to this meeting we had a number of issues with building and had a request to get a conditional use permit which he did. It was very obviously clear who that notice should have gone to. Because he attended the meeting and whatever.

**Valen-**If I may try to explain what happened? That notice went to Landdecker, according the affidavit; notices went to Aquarius to Kaubish and you folks on Second, Brock was not included. (unintelligible) as far as the improvements to your market value is not less than the assessed.

**Unidentified male-**I disagree with that.

**Schulz**-Okay, any other questions?

**Unidentified**-Yep.

**Schulz**-Nope, were going down the line thank you. Jim Wallace.

**Jim Wallace**- My name is Jim Wallace I am an attorney from Park Rapids I'm representing the Brocks here. This is my daughter and son in law, so I have a very vested interest in this. First thing I'd like to do is a (unintelligible) statute I'd like to file an objection in writing to preserve our (unintelligible) In reference to Jason comments I will reiterate those comments. Like it has been acknowledged my clients never got notice. Cory has been living there for 8, 9 , or 8 years prior to those improvements never had any written notice and had a phone call after the construction work started and first responded to no you're not on the list and did you just move there? He's been living there for eight years. So it's pretty clear that we never got any notice until equipment started showing up so I think it's pretty clear with respect to our situation (unintelligible) also their property is housed at the end of the street and they never got a sidewalk, there is no sidewalk to their property. They don't have a curb there is no front curb to their property. Prior to the improvement they had the same road they drove to their property and again like everybody's their sewer flushed, their water, they had water. So, it's a little hard to me to imagine or to characterize it as really as an improvement. I think the (unintelligible) water and the sewer is more of a replacement and their assessment is almost fifteen thousand dollars and so arguably their property on the market (unintelligible) you did this work in 2012 you (unintelligible) paid fifty thousand I can't imagine that anyone would pay more for the property (unintelligible) they had no sidewalk, curb and same road, they had water and sewer. So I think it's pretty clear that their market value, fifty thousand dollars (unintelligible) I'm hoping city council really honestly addresses that issue because otherwise we end up with an appeal and appraisers and this report (unintelligible) thank you.

**Valen**-We do show mailing the second notice to Cory Brock at (unintelligible).

**Unidentified**-I talked to Terri (unintelligible)so I called down there and her comment to me was (unintelligible).

**Unidentified female**-Isn't the other thing that we have to have access to get out of our driveway? We also had to inconvenience our neighbors to go way to park way down.

**Unidentified male**-It's a different issue; it's not a value issue of the assessment. It's an inconvenience issue.

**Schulz**- I guess as far as some of the methodology, I guess what we're considering already, you know we have some sort of an irregular (unintelligible) instances where we have cul-de-sacs, high shaped (unintelligible) accesses from that street, sewer and water is provided, you know (unintelligible) not necessarily abutting full length but there's a portion of it that needs to be assessed. When the council was looking at putting together the assessed (unintelligible) the committee when we sat down it was kinda with good judgment, (unintelligible) so that's where that number came from.

**Schulz**-Cory Brock. Courtney. Cheryl Kaubish. Gus Kaubish.



**Gus Kaubish-** Simple question. It all seems to hinge on this affidavit of notice being sent out. None of us received it for the first meeting, which was (unintelligible) being determined, and now it seems pretty odd. My question is who certified that affidavit? It must have been under oath? That seems to be what its contingent on. (Unintelligible)And if it required a notice of being sent out a return signature or so we can confirm that they were sent out. Or is it just your word against ours now.

**Valen-**We have an affidavit of service by mail signed by Terri Bjorklund the City Administrator and notarized by Sylvia Bakker (unintelligible)

**Gus Kaubish-**I have a question so if were going on that this notice on this meeting you said was going to be held at city hall. There's no date on it and there's and there's no phone number on here how to get a hold of city hall so if this is wrong are we sure the affidavit is correct.

**Unidentified-**(unintelligible)

**Gus Kaubish-**Letter, and again there's no date on it (unintelligible) I was over at City Hall and the liquor store had to tell me that there was no meeting there and so I came over there. And I'm not trying (unintelligible) if it's wrong on this how do we know that's right.

**Moore-**Gus is this for tonight's meeting?

**Gus Kaubish-**Yes.

**Moore-**Can I see that please?

**Jason Pederson-**It was wrong. Mine said City Hall and mine wasn't dated either. Everyone knows City Hall.

**Unidentified female-**The phone number that's on there is disconnected.

**Terri-** I can say that Walker City Hall was changed to Walker Fire Hall obviously (unintelligible) prior to that being printed (unintelligible) and when they were sent the wrong set got sent. And for that I apologize.

**Schulz-**I will apologize for that I will take ownership for that and when I put together the notice, I basically did the draft and forwarded that on and I included City Hall. As far as the typical meeting, I guess as far as what's considered city hall this is typically where all their council meetings are held, so that's why the verbiage I used .

**Unidentified female-**I'd like to make sure that our written objection was also received?

**Gus Kaubish-**And mine was received as well.

**Terri-**Yes it was.

**Schulz-**There's nobody else on this list.

**Jason Pederson-** I have one more question I would just as a taxpayer (unintelligible) for future notice letters dated this previous notice for the assessment and the values that were identified if all that was done correctly the assessment (unintelligible) I did get notice of the assessment hearing, I think it was dated August of 2013, so you know fourteen, fifteen months after construction was completed why was that assessment roll done 15 months after approximately.

**Schulz-**It wasn't I mean the project was actually, the final completion was this year. More often than not the assessments roll.

**Jason Pederson-**When you say final completion was done labor day and they didn't put the final layer of (unintelligible) until this spring in case they had (unintelligible) substantial completion was certainly done in 2012.

**Schulz-**Correct.

**Jason Pederson-** So why was the assessment notice, the assessment roll was dated August of 2013. Of the two of them that I received, was date August 12, 2013.

**Schulz-**Which one?

**Jason Pederson-**The assessment roll, the special assessment roll that I had (unintelligible) that is dated on the bottom is dated August 12, of 2013.

**Schulz-**According (unintelligible) you can come up with an estimate (unintelligible) for calculating the assessment. Everything is a final cost estimate nothing is on measurements is absolutely precise but we were waiting for the best information that we could get. The final project cost which included the work (unintelligible), included (unintelligible) included signing and those are items that are by (unintelligible) and that can vary it's not absolute exact science when we pave whether it's a millimeter or under a millimeter, the thickness varies so the cost varies. And we waited until costs were known and we put together an (unintelligible) assessment roll (unintelligible). And that's pretty standard the waiting until those costs are known to a degree.

**Bruns-**Any other comments? Do you have anything else to add? Alright, we'll close the public hearing for final assessments of Sixth Street.