

STAFF REPORT
May 13, 2019

Topic: Unaccepted road issue: Proposed criteria to accept these roads “as is”

Discussion: Public Works in October 2018 briefed the City Council on an “as is” option to accept those “unaccepted streets” that the City has been plowing and/or maintaining to some extent. The Council at that meeting asked Public Works to develop a proposed criteria to identify those roads that the City should accept in an “as-is” condition.

The many private roads in the City can be divided into two categories. Those that the City have been maintaining to some degree, called “unaccepted streets”, and those that the City does not maintain. Roads in the latter category should not be considered for acceptance in an “as is” condition as the City has not plowed or maintained these roads and in the past has required abutters on these roads to bring them up to current City standards as part of the acceptance process. Abutters on roads in this category can still request the City to accept these roads but would they would have to bring them up to current City standards via the betterment process.

There are two types of “unaccepted streets” that the City maintains to some degree. They are:

- Older streets with limited records and limited information on whether they were intended to become public. Examples of this type of road include the alleys in the Methodist Campground area.
- Newer streets that were not accepted by the City, and per the City Council’s unofficial decision in 1977, Public Works began plowing these roads. Examples of this type of road include Plantation Road. Public Works has more detailed records on these roads.

Public Works proposes the following criteria to accept a road in an “as is” condition:

- The “unaccepted street” must be currently maintained by the City and have been maintained by the City since 1979. Public Works has found a memo dated 1979 that lists the private streets that have been receiving City services.
- The developer of the newer roads must have met all conditions established by the Planning Board or went out of business before the development was completed.
- The condition of the road must not be such that it is a disservice to the abutters to accept the road in an “as is” condition.
- The condition of the road and its drainage system is such that it does not present a hazard to the abutters or those residents that are downhill/downstream of the road.
- Deeds or covenants on the road or development do not restrict the private road from becoming public.
- The road has been constructed, i.e. it is not a trail used by vehicles to gain access to their property.
- The road must not be in a state right of way.

Additionally all abutters on the road must provide an easement to the City. The City will not use eminent domain to obtain an easement on a property that prevents access to remainder of an unaccepted road that is being considered for acceptance “as is”.

Public Works to determine the cost impact of accepting these roads made the following assumptions:

- Gravel roads will remain gravel roads
- Drainage systems on the roads will remain the same
 - Roads with ditches will not be upgraded to underground drainage system.
 - Roads with inadequate drainage systems will not be upgraded to meet current design standards.
- Roads without street lights will not be provided street lights
- Capital improvements to paved road surfaces will be limited to maintenance shims. Many of these roads have asphalt on a subbase that was not prepared or barely prepared.

The following is Public Works' initial analysis of the costs of accepting these roads "as is":

- Since the roads are already being plowed by Public Works, there will be no additional costs associated with winter maintenance.
- Most of the paved road surfaces are presently not maintained by Public Works. Thus there will be additional costs associated with maintenance of these roads. Public Works estimates that it will cost approximately \$11,000 per year for in-house repairs to these roads. Unaccepted gravel roads are presently graded by Public Works so there will be no additional costs associated with grading unaccepted gravel roads.
- Drainage systems on unaccepted streets are presently not maintained. Public Works estimates that it will cost an additional \$4,000 per year to maintain the drainage systems in their present condition.
- These roads are presently not part of the City's capital improvement plan and were not included in the pavement management study. Public Works proposes that since these roads are being accepted "as is" these roads are limited to a maintenance shim. Performing maintenance shims on these roads will increase the backlog of road improvements by \$780,000 (current year dollars).

The City to accept a road in an "as is" condition must follow the betterment process. This requires that the abutters grant the City an easement over the land that will become the City's right of way. The average cost to survey and prepare the easement document is estimated to be between \$2,500 and \$5,000 except for those roads such as Pickerel Pond Road that are long and have many curves.

Public Works recommends the City adopt the proposed criteria. Applying the criteria to the 52 roads that could be considered unaccepted roads, Public Works is proposing to accept 31 streets "as-is".

If the proposed criteria are adopted, City Council will need to establish a program to fund the costs associated with the road surveys and easement documentation.

Accepting the 31 proposed roads will take several years. Public Works recommends the City continue to provide the same level of support to these roads as it currently provides until such time they are accepted "as-is" or the abutters elect not to provide the necessary easements.

Fiscal Impact: The estimated cost to survey and prepare the easement documentation for these roads is \$100,000. Public Works is proposing City Council allocate \$15,000 in FY 2020 to begin the process.

Recommendation: City Council approve the proposed criteria.

Proposed Motion:

"I move that we adopt the proposed criteria for accepting "unaccepted" streets "as is"."

"I move to adopt the presented list of "unaccepted" streets as "as is" streets."