

August 4, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator  
Vernon Gerth, Assistant City Administrator  
David Parker, City Engineer/CIP Executive  
Mark Hilty, Water Management Director  
Eric Gardner, Director of Engineering

SUBJECT: Monticello Sewer Assessment Project Update

## **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) and the community with an update on the Monticello sewer assessment project.

## **Background**

The Monticello Home Owners Association recently wrote their ward Alderman, Dana McLendon, with a series of questions regarding the ongoing sewer assessment project in their neighborhood (attached). A series of responses and a project update are provided below.

**Project Update:** The installation of sewer line is complete and the contractor has completed the paving. There are two streets within the neighborhood that will be resurfaced through the City's annual paving program. These streets are expected to be paved the week of August 9<sup>th</sup>. The paving costs are not considered part of the assessment and will not be spread among Monticello residents.

In order to tie on, the City will need to have a two reading ordinance to set the special assessment. Minor cleanup and yard restoration are the only tasks remaining for the contractor. Once everything is completed, we must have final quantities and invoices submitted by the contractor. Depending on the contractor, this could take a couple of months after work is completed. Then a final change order will go to the Board. Finally, the ordinance would go to the Board. With the two-reading ordinance requirement, final Board action will take 4-6 weeks. In total we are looking at a 3-5 month period before citizens could tie on. Staff will do what we can to move this process through as quickly as possible. Certain aspects such as contractor response and legal requirements for enacting the final special assessment ordinance are not under our control.

The following responses have been developed in response to the questions asked by the Monticello HOA. The letter with the HOA's questions is attached.

### **1. Finance:**

- a. The rate and term will be locked in with the approval of the Ordinance that establishes the assessments to the properties in the assessment district. This will be a two reading ordinance. While the initial ordinance indicated a finance period of up to 30 years,

BOMA has indicated that a 20-year term at the City's interest costs (estimated to be approximately 4%) would be appropriate.

- b. The connection fees not waived cannot be included in the assessment.
- c. The assessment by State law is a lien on the property and cannot be linked to the water bill. In the letter that was sent to each property owner on May 15, 2009, references were made to TCA 7-33-101 to 314 about the assessment. In the Monticello Resolution that the BOMA approved, it references TCA 7-33-314 specifically about liens. TCA 7-33-314 states:

Each improvement assessment, with any penalty or interest incident to the nonpayment of the assessment, shall constitute a lien upon the lot or parcel of benefited property against which it is assessed. The lien shall attach to each lot or parcel of benefited property at the time the annual improvement assessment is made, and then shall take precedence over all other liens, whether created prior to or subsequent to the making of such improvement assessment, except state, county and municipal property taxes, and prior special assessments. The lien shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners, if the description is sufficient to identify the property subject to the assessment. No irregularity in the proceedings of the governing body shall exempt any benefited property from the lien for the improvement assessment, or from the payment of the assessment, or from the penalties or interest on the assessment.

- d. Other information that may be helpful to residents in understanding the payment process:
  - i. Assessments are made based on the proportionate share of the assessed value of the individual parcel to the total value (i.e. properties with higher values will pay a higher assessment). The outstanding principal owed by each property owner has a high probability for varying from year to year due to changes in assessed valuation of individual properties.
  - ii. Assessments are non-transferrable and are to be paid in full upon transfer/sale of the property.
  - iii. Liens will be filed on each property not paying the assessment in full to protect the City's investment.
  - iv. The assessment will accrue interest on the outstanding principal starting the first of the month following BOMA approval of the assessment and repayment will commence on the next billing cycle.
  - v. Assessments may be paid in full at any time without penalty.
  - vi. Assessments will be billed on separate bills for those property owners who are not living in the residence (i.e. property is rented). Nonpayment of the bill in full may result in disconnection of water service for those property owners who are living in the residence. For those who have tenants, other legal remedies will be pursued.
  - vii. A minimum sewer service charge will apply for those property owners not connecting to the City's sanitary sewer. Sewer service charges will apply for

services delivered/billed the month following the assessment. Upon connection, service will be billed based on provisions of Title 18-210 for sewer service fees.

## **2. Fees:**

- a. There is no policy established. BOMA decides for each assessment district.
- b. In accordance with Resolution 2009-14, the resolution establishing the Monticello Assessment District, the City's Sewer Access Fee and Installation Charge has been waived. At present the construction cost used to establish the anticipated assessments includes engineering, easements, actual construction and bond issuance costs.
- c. BOMA will have to approve (pass) an ordinance to set the assessments and the fees to be waived will be listed in this ordinance.
- d. Prior to the vote on second reading for the ordinance, there will be a public hearing.
- e. With the passage of the revision to Title 18 eliminating the requirements to tie to the sanitary sewer system, there is no time limit for tie on. Waived fees are perpetual.

## **3. Gravity vs. Grinder pumps:**

The Monticello sanitary sewer project was set up for all gravity, but there are some properties with basements that may not be able to be served by gravity if the basements are to be served. These properties will need to be pumped. All connections will be inspected by the Water Management and the Building and Neighborhood Services (BNS) Departments. If any property owners wish to install a grinder pump system, they may make that request when working with the Water/Sewer and BNS Departments. Those properties approved for grinder pumps will require the property owner to sign a "Grinder Pump Agreement" at the time the connection fees are paid.

## **4. Paving:**

The City has an approved Neighborhood Traffic Calming Program that addresses the issues concerning "speed humps." Materials related to this program and the application process is attached. This program can also be found on the City's web page and the Home Owners Association can request traffic calming by following the link: <http://www.franklintn.gov/Modules/ShowDocument.aspx?documentid=605>.

## **5. Odds and Ends:**

- a. The BOMA are still working through the final details of the septic system certification program. A draft has been presented to the Alderman and staff expects the Alderman to finalize the program by the end of this month. At this point, it is anticipated the City's Building and Neighborhood Services Department will coordinate the Certification program. If the Aldermen choose to include the pumping of the septic tank as part of the program, City staff will pre-qualify State-licensed sewage haulers that will be available for property owners to arrange the pumping and inspection of their septic tanks. They will be trained on the information (reports) to be submitted for City staff to approve a system for certification. It is expected property owners will contract one of the State-

licensed haulers when it is time for the septic system to be certified. Currently the BOMA are considering a three or five year certification cycle.

- b. The gravity sanitary sewer system has been tested (pressure), but is not ultimately a pressure system. Property owners will be notified in writing of when connections to the public gravity sanitary sewer system may commence. This cannot happen, however, until the assessment for each property is finalized by BOMA. Each property will be responsible for obtaining a licensed plumber to connect their residence to the system. The connections cannot be permitted until all fees that are required are paid.

## **6. General Funding:**

General funds are not used to finance sanitary sewer projects. These projects are paid for from the sanitary sewer enterprise funds that are made up of usage charges and various collected fees. Generally speaking, assessment districts are used when a project benefits only a few residents or a specific neighborhood while utility capital funds are used for broader system improvements (such as an interceptor line) that benefit the entire system. BOMA has set a policy that improvements (infrastructure) for existing subdivisions annexed into the City will pay for the infrastructure through the establishment of Assessment Districts. The infrastructure lacking in such annexed subdivisions is typically the sanitary sewer system.

At the time for submission for ARRA funding, City staff did not believe that the Monticello project would be able to meet the requirements in the timeframe required by the ARRA funding program; therefore, the project was not submitted for inclusion in this program.

## **Financial Impact**

Not applicable.

## **Recommendation**

It is recommended that the Board accept this status report.