

BOARD OF ALDERMEN

ITEM NO. C(14)

AGENDA ITEM ABSTRACT

MEETING DATE: June 19, 2007

SUBJECT: Request to Set a Public Hearing for the Permanent Closing of a Section of Center Street Right-of-Way

DEPARTMENT: PUBLIC WORKS DEPT.	PUBLIC HEARING: Yes
ATTACHMENTS: A. Resolution B. Map C. Request letter from Fitch Lumber Company	FOR INFORMATION CONTACT: George Seiz 918-7427

Purpose

The purpose of this agenda item is to set a public hearing on a request to permanently close a section of Center Street right-of-way adjacent to 203 Center Street.

Information

Town staff recently received a request from Miles Fitch, Jr. of Fitch Lumber Company to permanently close a section of Center Street right-of-way as shown on attachment B. Fitch Lumber Company is the owner of the property on both sides of this section of dead-end street, and as noted in the request letter this section of roadway had been closed and inside the lumber company fence for thirty to forty years. The fact that a portion of public right-of-way was fenced off did not become apparent until OWASA informed Fitch Lumber Company of a sanitary sewer inside the fence and within public right-of-way as notified by the Town’s Street Superintendent. Fitch has been utilizing this portion of public right-of-way for many years and would like to have the right-of way closed to legitimize the use of the property. Mr. Fitch has already paid to relocate the sanitary sewer that serves the property located at 201 Center Street.

In accordance with General Statute 160A-299, the following would be required to permanently close this portion of Center Street:

- Adoption of a resolution declaring the Board’s intent to permanently close the section of Center Street.
- A public hearing must be set.
- The same resolution must be published once a week for four successive weeks prior to the hearing.
- A copy of the resolution must be sent by certified mail to all owners of property adjoining the portion of Center Street proposed for permanent closing.
- A notice of closing and public hearing must be prominently posted in at least two places along the street.
- A public hearing must be held.
- After the hearing, the Board may order the closing of the section of Center Street right-of-way.

- If the street is closed as proposed, a certified copy of the order must be filed in the office of the register of deeds.
- The Board's order to close would be subject to appeal for 30 days after adoption.
- If the street is closed as proposed, then all right, title and interest in the right-of-way, excluding utility improvements and easements, shall be conclusively presumed vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

Town staff is in general supportive of this request and will be making a more in-depth review in the next few weeks. With the up-coming summer break, and the fact that the public hearing must be advertised for 4 consecutive weeks in advance of the hearing, staff proposed that the Board declare it's intent to close the right of way and set a public hearing for August 28th. This time frame will allow staff adequate time to prepare for the public hearing and provide required notification.

Fiscal Impact

There is little or no fiscal impact with this closing since the Town has not maintained this section of right-of-way for many years, and any increase in property value will be relatively small.

Recommendation

It is recommended that the Board of Aldermen approve the attached resolution setting a public hearing for August 28, 2007.