

# COUNCIL DECISION REQUEST

SUBJECT: Cedar Lane Improvement District

MEETING DATE: 5-19-09

PAYSON GOAL: NEW:            EXISTING:

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: LaRon Garrett, Pub. Works Dir.

AMOUNT BUDGETED: \$200,000

SUBMITTAL TO AGENDA

EXPENDITURE REQUIRED: \$200,000

APPROVED BY TOWN MANAGER

CONT. FUNDING REQUIRED: \$0

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EXHIBITS (If Applicable, To Be Attached): Letter of Request, Map of Proposed District

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## **POSSIBLE MOTION:**

I move to approve the request to form the Cedar Lane Improvement District and direct staff to work with Bond Counsel, Fred Rosenfeld, to formulate a Resolution of Intention to create the Cedar Lane Improvement using the proposed boundary submitted with the request to form the improvement district.

**SUMMARY OF THE BASIS FOR POSSIBLE MOTION:** Cedar Lane is a narrow private roadway in the southeast part of Payson. It runs east-west between Mud Springs Road and Sutton Road, just north of Phoenix Street. Several years ago it was maintained by the Town of Payson. In 2001 the Town put a single layer chip seal on Cedar Lane as a dust palliative. At that time the Town was working with the residents to make it a public road. Those negotiations were unsuccessful due to the unwillingness of some of the Cedar Lane residents and after much discussion the Council directed in 2002 that there be no more Town maintenance of the road.

The road has deteriorated over the past 7 years to where it is very narrow and rough with numerous potholes. There are also some drainage issues with this roadway. Recently, there was a structure fire in this area. The existing roadway is not conducive to large vehicle traffic such as fire trucks and was an issue in getting the emergency equipment to the fire.

In recent years some of the residents have again tried to make the road public. The residents heading up this effort have not been successful in getting all property owners in agreement with the project. One of the issues is road ownership. The roads' current status is "A 60' wide public road and utility easement for ingress and egress of pedestrian and vehicle traffic, together with public service utilities...". The Town never accepted this easement for the public. Therefore, it is currently a private roadway. During previous efforts to improve Cedar Lane and make it a public roadway one of the sticking points was that the Town was asking the owners to dedicate the right of way to the Town. That request was based on the Towns 'Dirt Road Elimination Policy'. Since the property is already encumbered with a roadway easement, the owner really doesn't have use of the property. Some property owners were not willing to do that. Another was the cost of the property owner's share of the improvements.

The Town has now received a request from two property owners in the Cedar Lane area asking the Town Council to form an improvement district as a method to improve the roadway. The purpose of using an improvement district is two fold: (1) it provides a method of financing the property owners' cost of improvements; and (2) it allows all property owners within the district boundaries to be assessed as long as at least 50% are in favor of the district. The

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public roadway is still an issue since all improvements constructed with an improvement district must be owned by the "public". A less desirable but acceptable way to resolve the right of way issue is for the Town to accept the existing easement area as a Town public roadway easement. This will be a necessary step if the improvement district moves forward. The individual property owner will still be able to dedicate their portion of the right of way to the Town if they desire. This will remove that portion of property from their tax assessment and eliminate the liability of having a roadway on their property.

If approved, the improvement district would construct a 20' wide paved roadway with 2' shoulders (total width = 24'). The roadway surface would be 2" of asphaltic concrete on an ABC base. The project would also include necessary drainage improvements to protect the new roadway. This project does not include any water or sewer improvements. The estimated total cost of the project, including engineering, bond counsel, financial advisor, and construction, is \$200,000. This cost would then be assessed back to the 34 properties within the proposed district boundary. The method of assessment is yet to be determined. Current options include assessing each property equally or assessing those properties with actual Cedar Lane frontage at twice the rate as those that do not have Cedar Lane frontage. This will need to be finalized prior to passing the Resolution of Intention that actually creates the improvement district.

The improvement district process is governed by Title 48 of the Arizona Revised Statutes. If the Council decides to approve the current request and move forward with the improvement district, the next step is to have the District Bond Counsel prepare a "Resolution of Intention". The Resolution of Intention creates the improvement district and sets the maximum amount of the individual assessments. Previously, the Town has used Fred Rosenfeld of Gust Rosenfeld as Bond Counsel for improvement districts. Staff recommends that he also be used as Bond Counsel for this project, if it moves forward.

Once the Resolution of Intention is prepared, it will be brought before the Council for approval. If approved, then the Resolution will be published at least twice in the newspaper and the area of the proposed improvement will be posted. After the last date of publication the property owners within the district have 15 days to file a written protest against the district. If any protests are received, the Council must then hold a hearing on the protests. If any protest is sustained the district is stopped. If the protests are denied, the project may move forward as planned.

Staff has received correspondence from residents in the proposed district both in favor and opposed to this project.

Staff recommends approval of the request for the formation of the Cedar Lane Improvement District and that staff work with Bond Counsel, Fred Rosenfeld, to formulate a Resolution of Intention to create the Cedar Lane Improvement using the proposed boundary submitted with the request.

The Town will need to pay for any engineering and incidental costs up front and then will be reimbursed from the bond proceeds. All construction costs will be paid for out of the bond proceeds. The \$200,000 is included in the proposed 2009-2010 budget.

**PROS:** This will improve an existing dirt roadway and bring it into the Towns maintenance system. The new road will improve safety and emergency access in the southeast part of Town.

**CONS:** The residents will be required to pay for the costs of the improvements. Some of the residents do not want to pay any costs.

**PUBLIC INPUT (if any):** On March 18, 2009 the two residents heading up this request, Joel Mona and Lew Levenson, held an informational meeting for all the property owners in the Police Department Training Room. Approximately 15 property owners attended the meeting.

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**BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):**      N/A

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**FUNDING:**

|                          |                   |                      |          |            |
|--------------------------|-------------------|----------------------|----------|------------|
| Acct: 401-5-3442-00-873X | Budget: \$200,000 | Available: \$200,000 | Expense: | Remaining: |
| Acct:                    | Budget:           | Available:           | Expense: | Remaining: |
| Acct:                    | Budget:           | Available:           | Expense: | Remaining: |

3A: \_\_\_\_\_ Date: \_\_\_\_\_

April 25, 2009

Debra Galbraith, Town Manager  
Town of Payson  
303 North Beeline Highway  
Payson, AZ 85541

RE: Request to Form an Improvement District

Ms. Galbraith,

The portion of Cedar Lane between 1204 East Cedar Lane and the western intersection of S. Sutton Road is a poorly improved roadway that has a single layer of deteriorating chip seal as surfacing. The roadway is aligned through property designated generally as easements for ingress, egress, public utilities, public roadway, vehicular traffic and various other descriptions.

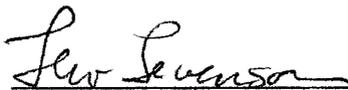
To improve this portion of East Cedar Lane and for the Town to accept it as a public roadway we request that the Town of Payson Council a resolution per ARS 48-505 declaring it's intention to create an improvement district within the boundary shown on Attachment A.

It is in the public interest that this portion of Cedar Lane be improved to increase safety of the traveling public, improve emergency vehicle access, allow the Town of Payson snow removal and reduce particulate pollution where the chip seal no longer exists.

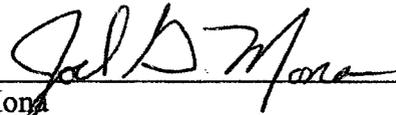
Many of the residents within the proposed district boundaries have indicated either verbally or by email that they are interested in pursuing the formation of the needed improvement district. Cost to be allocated per advice from private counsel.

Thank you for consideration of this request.

Please feel free to contact either Lew Levenson or Joel Mona with questions related to this request.



Lew Levenson  
1308 East Cedar Lane  
928-472-7175  
[equality@npgcable.com](mailto:equality@npgcable.com)



Joel Mona  
1406 East Cedar Lane  
928-978-1387  
[jmona@npgcable.com](mailto:jmona@npgcable.com)

cc: LaRon Garrett, P.E., Public Works Director

Enclosed, Attachment A rev. 4/25/09 (proposed district boundary)

# Attachment A (revised 4/25/09)

