

## **Larry Tokarski leaves the public with a \$7.5 million development bill**

There was much wringing of hands and gnashing of teeth at the January 22 City Council meeting prior to a vote on a proposal for the public to pay for an extension of Lone Oak Road through the Creekside development in south Salem, rather than the Creekside developer.

Mayor Chuck Bennett said, "This is why people have problems with government," adding that onlookers were probably thinking "Wow, how did this mess get to this point?" Councilor Chris Hoy added, "It's an artful solution to a problem we never should have had to deal with." Councilor Tom Andersen chimed in with, "I'm frankly appalled that it came to this."

Yet in the end, the Council voted 7-2 to approve a Lone Oak Road Reimbursement District (Sally Cook and Cara Kaser were the no votes).

Over the next 20 years the District will assess a fee ranging from \$2,464 to \$9,854 when a lot is developed in four areas near Creekside, with the amount of the fee being determined by an estimate of how much benefit people living on the lot will get from \$7,347,000 worth of improvements to Lone Oak Road.

The total cost of those improvements is \$9.3 million. About \$2 million will come from Systems Development Charges, fees developers pay for needed infrastructure like sewers and water lines.

Right now the Reimbursement District has zero money.

And \$2,395,000, a big share of the \$7,347,000, is expected to come from the build-out of 260 lots on what is now the Creekside Golf Course. This transformation of the golf course into a subdivision is being legally challenged by the Creekside Homeowner's Association, so it may never happen.

What does seem virtually certain is that the developer of Oak Ridge Estates, a new 38-lot subdivision south of Creekside, will front the \$1.8 million needed to link the southern portion of Lone Oak Road with Rees Hill Road. The developer then will hope that the Reimbursement District accumulates enough money to pay them back.

The remaining unbuilt northern portion of Lone Oak Road south of Muirfield Avenue and Jory Creek looks like it will stay that way, unbuilt, until a future City of Salem Streets and Bridges bond is passed by voters that includes the \$7.5 million for improvements to that part of Lone Oak Road: \$5.6 million for a bridge over Jory Creek and \$1.9 million for the road itself.

That missing 2,200 foot northern section of Lone Oak Road runs through Creekside property that comprises the development's remaining phases on the west edge of what is now the golf course.

So the big question asked over and over, not only at the January 22 City Council meeting, but also at previous meetings, was:

Why isn't the Creekside developer paying for the \$7.5 million in Lone Oak Road improvements rather than the public, who will pay either through a citywide bond measure funded by property taxes (most likely) or the Reimbursement District (less likely)?

Strangely, the name of the developer rarely was mentioned at those meetings. Every time I heard "The Developer," I couldn't help thinking of He Who Must Not Be Named in the Harry Potter series. But he needs to be named, because he's the person who failed to make promised improvements to the northern portion of Lone Oak Road, forcing \$7.5 million to be paid by the public instead.

Larry Tokarski, that's the name.

Salem Weekly previously has reported that Tokarski influenced the development and building of over a billion dollars in real estate over his lengthy career. Though Tokarski no longer lives in Salem, he's contributed a minimum of three-quarters of a million dollars to local political campaigns since 2009. Tokarski also is a major donor to charitable causes in Salem.

What's clear is that Tokarski, in his role as the Creekside developer, should have made the improvements to Lone Oak Road. At the March 27, 2017 City Council meeting, following some comments about the \$5.6 million Lone Oak Road bridge, Public Works Director Peter Fernandez said: "The project was the responsibility of the Creekside developer and over time they simply never built it."

I've poured over a bunch of mind-numbingly complex City of Salem documents in an attempt to learn what Tokarski was required to do with Lone Oak Road and why he never constructed those improvements. I don't claim this is the complete answer, but here's my best crack at it.

Creekside is over 25 years old and has been built-out through 14 phases. The original 1992 development permit contains some straightforward language about what Tokarski was required to do with Lone Oak Road.

For example: "Lone Oak Road south of Mildred Lane is an internal or boundary street which is the responsibility of the developer."

Also: "Lone Oak Road SE will be improved from the intersection of Lone Oak Road with existing Mildred Lane SE to the south line of the subject property [the entire 264 acre Creekside development] including the portion of the street located outside the subject property."

Yet Tokarski has been able to keep on developing Creekside without making the promised improvements to Lone Oak Road, including the Jory Creek bridge.

In 2007 Tokarski started to construct the missing northern portion of Lone Oak Road. Preliminary earth grading of the road occurred and a box culvert was installed over Jory Creek. So this shows that Tokarski knew he was obligated to make those improvements.

But he never completed them. A City of Salem staff report says, "Work on the project was halted by the developer and no additional work has occurred since 2007. At present there is no timetable for constructing the bridge and remaining sections of Lone Oak Road SE."

There's a Sherlock Holmes story about the dog that didn't bark.

This turned out to be an important clue to solving a crime, because Holmes deduced that the dog must have known a person well, leading it to remain silent. I have a similar deduction in this instance. City officials did nothing about Tokarski's failure to build Lone Oak Road and the Jory Creek bridge because he is so well known in Salem.

To put it another way, members of Salem's 1% often get treated a lot more delicately by City officials than the 99%, especially when they're a real estate developer. Development brings in more fees and taxes, music to the ears of the cash-strapped City of Salem.

Before voting against the Lone Oak Road Reimbursement District, Councilor Cara Kaser said, "The City, I guess, really did not do what we were supposed to do over the last 30 years with the way this [Creekside] is developed." She added, "It doesn't feel equitable."

No, for sure it isn't equitable when Larry Tokarski, a rich real estate developer, walks away from his obligation to build promised improvements to Lone Oak Road, leaving Salem citizens with a \$7.5 million bill.

I asked some questions of the City Attorney, Dan Atchison, and he provided me with some cogent explanations of how this Creekside mess ended up in the lap of the general public. One reason that Tokarski now can't be forced to pay for the Lone Oak Road improvements is because the remaining lots to be developed at Creekside are so few, legally it would be a disproportionate burden for him to pay the \$7.5 million.

As was stated repeatedly by city councilors, what's needed now is to make lemonade out of lemons by the formation of the Reimbursement District. But this isn't the only thing the City Council should do.

Screw-ups in the past should become lessons for the future. It's an open secret that the Public Works Director and other high-ranking City staff bend over backwards to

accommodate the wants of developers. Larry Tokarski benefitted from this, and the general public suffers from this.

The City of Salem dog needs to bark more loudly and often when the public interest isn't being served by private developers. City staff need to be more even-handed, looking upon themselves as the public servants that they are, rather than as handmaidens of developers.

When a developer fails to honor an important commitment, as Tokarski did with Lone Oak Road, there need to be serious consequences. If years ago the City of Salem had said, "No more building permits until the road and bridge are built," likely citizens wouldn't be stuck with picking up a big part of Tokarski's Creekside development tab.

If the next Streets and Bridges bond measure includes a request for \$7.5 million (in current dollars) to build the northern portion of Lone Oak Road and the Jory Creek bridge, it may be saddled with an unfortunate nickname, "The Tokarski Bailout Bond."