

Minder Ave paving pull-out still a mystery

Lee Spinks
The Bisbee Observer

Inquiry into specifics regarding cancellation of a scheduled paving of a portion of Minder Avenue calls for a correction in the report printed in the last issue; BNR Paving Company, based in Huachuca City, was not under specific contract to provide service at that location. A review of records by BNR identifies specific paving projects on Taylor, Old Douglas Road, Howell Avenue and Ruppe and a generalized ser-

vice agreement that also included some portions of Vista Parkway. A week ago a company employee stated Minder was among the locations where work was done, to the best of their knowledge, since the company had a contract for such repairs, but no billing had yet been completed. This week the company states Minder was not among their job orders for Bisbee, based on discussion with paving crews.

Attempts to ascertain the sequence of events pertaining to a

paving of a portion of Minder Avenue and the cancellation of that task, have yet to be conclusive. Three versions have emerged. First, the city did intend to pave a section, as a settlement with a property owner whose property was encroached during an access road improvement to a communication tower, but the task was cancelled due to unavailability of asphalt, from a Douglas provider. Second, that Mayor Ron Oertle having

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been informed of the intended paving intervened and cancelled the paving. Third, a citizen taking pictures of the event resulted in abandonment.

City Manager Stephen Pauken stated he was unable to document any of the claims and therefore could not definitively say which event or allegation was true. That, he said, was the foundation for his remarks to council at the April 18 session, when he reported no recommendation could be made regarding the incident. The incident occurred before Pauken was city manager.

Pauken also said, in his opinion, it was an infraction of the professional code of ethics for city managers to comment on the actions of former managers, without irrefutable evidence to substantiate statements. Pauken said he will continue to abide by this ethical code.

The Bisbee Observer spoke to Assistant Public Works Director Jeff Schwarz, on Monday about the Minder Avenue paving event.

Schwarz was asked, What was happening on this day on Minder Avenue? "The City of Bisbee was preparing to put hot-mix asphalt pavement down on Minder Avenue from Black Knob to the northeast end. At that time, unfortunately, the hot plant in Douglas, that mixes the hot asphalt, broke down. We had to abandon the effort at that time. I showed up on site as Mr. Von Gundlach was taking photographs and had a brief discussion with him explaining what we were doing and how it came about."

Schwarz said, "At an earlier project, which was to provide a generator station for the Black Knob radio towers, we had encroached onto private property. In discussions, which went on for some length of

time, with the property owners, it was determined maybe the city could basically make restitution, for this encroachment, by paving that road."

"Why would that be restitution for a private property owner?" Schwarz replied: "The property owner was upset that in the process of clearing (the access road) for the generator station some shrubbery and plants were cleared off of their property. The city did do the clearing at the direction of the radio tower association personnel. The radio towers are owned by a group of folks, including Border Patrol, Sheriff's Office, all the emergency services, including the county, it's an important tower, very important. So, in discussions with the city manager, Mr. McConnell and myself, it was determined we would do that paving."

Which city manager? "Rob Yandow," replied Schwarz.

Schwarz continued, "We realized this issue was going to become somewhat contentious, so we basically abandoned that mission."

Why was it going to be contentious? "Apparently there were some people who didn't feel that it was a justifiable use of city assets."

Why did Mr. Pauken say there was no work order or any traces of records to do this? Schwarz replied, "I don't think there was a work order, to be honest with you." It was an in-house decision? "Absolutely."

City Clerk Helen Lehr spoke with The Bisbee Observer on Monday and stated she was Interim City Manager during this period of time.

She said Mayor Oertle came to her office and asked what was taking place on Minder Avenue, that he had received a phone call about the paving. Lehr said she informed the mayor of the situation. Lehr said Oertle then asked her to discontinue the work on Minder Avenue and she followed the directive.

Tuesday evening prior to the council session Oertle was asked if the information from Lehr was correct. He confirmed the statement was true and acknowledged he issued the directive.

Yet another related matter emerged late Tuesday afternoon with release of a letter by City Attorney John MacKinnon, dated May 2, and addressed to the owners of the property whose land was allegedly encroached during road repairs to the emergency services radio tower.

The letter recaps a discussion conducted the day before involving the property owners, the city attorney and City Manager Stephen Pauken. Part of paragraph four states: "At our meeting on May 1, 2006, Mr. Pauken stated that although we are unable to document any of these prior discussions or arrangements, there is still an important city interest in completing the improvements to Minder Avenue. Funds will not be available until the next fiscal year for this work, but Mr. Pauken agreed that this is a roadway that needs to be repaired and improved, along with other city streets, with 2006-2007 fiscal year road funds."

? SOUTH END