Dublin City Council
PUBLIC SERVICES COMMITTEE
Monday, June 29, 2015
Council Chambers – 6:30 p.m.

Minutes of Meeting

Ms. Salay, Chair called the meeting to order at 6:45 p.m. (Technical problems delayed the start of the meeting.)
Committee Members present: Ms. Salay, Mr. Reiner and Mr. Lecklider.
Also present: Council Member Chinnici-Zuercher.
Staff members present: Ms. Crandall, Ms. Readler, Ms. O'Callaghan, Mr. Hammersmith and Mr. Gunderman.
Ms. Salay noted that the Committee will discuss private streets, private drives and one private street in particular – Caplestone Lane.

Approval of Minutes of May 26, 2015 Public Services Committee meeting
Ms. Salay moved to approve the minutes of the May 26, 2015 Public Services Committee meeting. Mr. Reiner seconded the motion.
Vote on the motion: Ms. Salay, yes; Mr. Lecklider, yes; Mr. Reiner, yes.

Presentation re. Broad Topic of Private Streets and Private Drives
Ms. O'Callaghan noted that everyone has a paper copy of the PowerPoint and can follow along. The topic of private streets and private drives involves many of the same considerations as the topic discussed at the last Committee meeting of HOA maintenance of common areas. Some of those considerations are:

1. There are many unique situations currently in existence today, as each development is unique and has its own identity or character.
2. There can be an issue of equity or fairness that comes into play.
3. The term "streets" and "drives" are defined in Dublin City Code and they have been used inconsistently over the years, as will be demonstrated in tonight's presentation.

The team present has met several times and had much discussion regarding the history and how to proceed in the future.

Private Streets - Background
Dublin Code does distinguish between private streets and private drives. In the Code, private drives are referred to as "driveways." "Private streets" are defined in the subdivision regulations as "a strip of privately owned land providing access to abutting properties. Private streets should be so indicated on the plat. Improvements of private streets shall conform to the minimum street standards and street sections as contained herein. In PUD-zoned areas, private driveways and parking areas within commercial, industrial and multi-family areas shall not be construed to mean private streets."
Since the 1990s, City Code has been in place that requires all private streets to be constructed to public street standards. However, there are private streets in place that were built prior to that time and therefore are not up to public street standards.
Staff inventoried and identified a limited, quantifiable number of private, paved areas that are official labeled as private streets on the plats. There are seven that have been identified and she described each:

1. Muirfield Court was built in 1979 and is gated, does not meet public street standards, is narrower and does not have sidewalks. It does have curb and has single-family homes.
2. Dunsinane Drive was built in 1979 and is also gated, does not meet public street standards, is narrower and does not have sidewalks. It does have curb and has single-family homes.
3. High School Road, around Sells Middle School off of Bridge Street does not meet public street standards, as it was built in 1977. It does not have sidewalks, but has curb.
4. Caplestone Lane, built in 1993 is a private loop street located on the south side of Dublinshire Drive. It is not gated, has single-family lots, does not meet public street standards, does not have sidewalks, and is narrower. It looks similar to the two in Muirfield, but it is not gated.
5. Deer Run subdivision (2015) has three new private streets being built as part of that development. Single-family, gated, streets do not meet public street standards, do not have sidewalks, and are narrower.

These seven are the private streets that are in existence in Dublin.

There is a City Code Section 97.03 that provides for conversion of a private street to a public street. This Code section outlines the criteria for acceptance of private streets as public street. The minimum standards to be met include street width, curb and gutter, pavement thickness and strength, and sidewalk installation. There is also a process outlined in that Section that includes consulting with City Planning and Engineering staff, then review by Planning & Zoning Commission, and if the Commission disapproves it, the applicant has the right of appeal to City Council.

Mr. Reiner stated that it seems challenging to bring a private street up to the City standards for public streets.
Ms. O'Callaghan stated there are three Code sections involved. As Caplestone Lane and the development is built out, the minimum standards that must be met include street width, curb and gutter.
Ms. Salay asked about the required street width for public streets.
Mr. Hammersmith responded it is 28 feet back-to-back from curb.
Mr. Reiner asked about the width of the seven private streets referenced tonight and if they all have curb and gutter.
Ms. O'Callaghan responded she does not have the width information for each of these streets. The first four have curb and gutter, but Deer Run private streets are under construction and they will not have curb and gutter.
Mr. Gunderman clarified that some of the Deer Run private streets will have curb and gutter. It is a mix.
Mr. Reiner asked why the City does not require curb and gutter for private streets. What is the logic?
Mr. Gunderman responded that the single-family, very large lots in Deer Run do not have curb and gutter. The area under development now, with smaller lots and with an architectural theme, with its own gate off Memorial has private streets with curb and gutter.
Mr. Reiner asked if they are segregated from the area with large lots.
Mr. Gunderman responded they are separate, with two separate entry gates.

Ms. O'Callaghan noted that pavement strength must also be brought up to City public street standards. The pavement on Caplestone is thinner than the City's standards, so this would need to be improved. There need to be sidewalks, and none of the seven streets referenced have sidewalks.

Ms. Salay stated that property owners on private streets would have significant hurdles to be qualified as a public street. It seems impossible.
Ms. O'Callaghan responded that staff would concur it is not practical, as the entire street section would have to be rebuilt.
Ms. Salay asked if the rebuilding would be at the neighborhood's expense.
Ms. O'Callaghan confirmed that is correct.
Mr. Reiner stated that if they want to convert a private street to public, the property owners would bear the expense for bringing the street up to public street standards. He added that the developers build private streets to save money, to enhance the neighborhood aesthetics, etc.

Why Private Street vs. Public Street?
Ms. O'Callaghan stated that staff's default preference is to have public, not private streets. Staff prefers the public street width of pavement for accessibility and for maintenance purposes; prefers sidewalk; and prefers pavement buildup for future maintenance purposes as well and to maintain the condition of the pavement. The City is in the business of maintaining these expensive assets, which are used by the public at large. Therefore, the initial preference by staff is for public streets.
What has occurred in the past is that private streets have been driven by the developer. Typically, this is observed in areas with heavily treed lots and the developer wants to preserve trees. The City's public street standards with sidewalks, etc. require more space, resulting in a bigger environmental conditions impact. It is also a character consideration, as curb and gutter and sidewalks have different feel or character versus private streets without these.
In addition, City Code does allow private streets. For these reasons, there have been private streets approved in the past.

Private Drives – Background
Ms. O'Callaghan stated that private drives are defined in the Dublin Code Section 152.002 as "driveways." The private street definition was a strip of privately owned land providing access to abutting properties. The definition of private drives is "a private road giving access from a public way to a detached single-family dwelling on abutting ground, or to a group of multi-family or commercial buildings, which is not dedicated to the City, and for the maintenance of which the City shall not be responsible and which for those reasons is not subject to these regulations."
It is evident that there is some confusion with these definitions, and it is difficult to discern the two. Staff will recommend tonight that these Code sections be clarified.

Private Drives – Residential
In the Code, private drives can further be categorized as commercial and residential drives. She shared a map of where the residential drives are currently located throughout the City. Typically, the residential drives are found in multi-family and condominium developments.

Private Drives – Commercial
She shared a map depicting locations of private drives that are commercial. A good example is Mercedes Drive, which has often been brought up in the context of maintenance issues.

Mr. Reiner asked for clarification regarding this map.
Ms. O'Callaghan responded that this represents areas in the City where there are multiple private drives. It was hard to show each and every private drive on a map.

Ms. Salay noted these generally appear to be part of larger PUD developments approved and constructed with private drives within the development.

Benchmarking
Ms. O'Callaghan noted that in preparation for this meeting, staff did some benchmarking of other cities in the region and across the country regarding how they define/address private paved areas. The results were inconclusive. Some cities use the term "private drive" or "private street" or "private road," while some differentiate between the different types of roads and some don't. The terms are used loosely across the country. What staff determined is that the definitions currently in Dublin's Code are probably better than others found. Some of the communities benchmarked do have a mechanism for converting private streets to public streets; similar to Dublin, however, they indicate the process is not utilized and the processes they use also require that the private streets be brought up to public standards prior to the city taking them over. For that reason, the process is not typically utilized. Staff did learn from the benchmarking that in the communities that have private streets/roads/or whatever they are called, they are typically in multi-family condominium and commercial developments as opposed to single-family developments.
In all cases, the maintenance of those private roads rests with the private owners. If there are issues with the maintenance of those roads by the private owners, the communities rely on Code enforcement to bring that maintenance up to standard.

Considerations/Options Identified for Discussion
1. Status quo. The City could continue differentiating between private streets and private drives as is done today in the Code, allow the construction of private streets and private drives into the future, provide a mechanism for conversion of private streets to public streets per Code, and utilize code enforcement if there are maintenance issues.
2. Prohibit new private streets moving forward.
3. City could assume maintenance for the existing private streets that are in place.
4. Leave private street definition as is to address those existing private streets. Do not differentiate between private streets and private drives moving forward. That would involve changing the definition of "driveway" so that it is broader and it covers these paved areas somewhat more clearly in the future. This would result in having just one category. The City could also require maintenance and be more proactive in code enforcement in the maintenance of those areas.

Caplestone Lane – Background
Ms. O'Callaghan stated this is a private loop street in the Earlington Village PUD and includes 36 single-family lots. In comparison to the other existing private streets reviewed tonight, it is different in that it is not gated and is not a school. In terms of background, this development was originally planned as condominiums. That developer went bankrupt, and another developer came in and proceeded with single family. The record indicates that the reason that developer wanted a private street was in order to preserve as many trees as possible. The Woods of Dublinshire plat was very clear that this would be a private street, maintained by the HOA. She noted she reviewed the meeting minutes from Council, Planning and Zoning Commission – and there was significant discussion regarding this being a private street and making it clear to everyone that the HOA would be responsible for maintenance of this private street into the future.

Mr. Lecklider asked where in the record the successor developer indicated that the reason he wanted the street to be private was in order to preserve trees.

Ms. O'Callaghan stated that staff can find the specific location of this information.
Mr. Lecklider responded that many months ago, staff prepared a packet with a lot of history, and he does not recall seeing that information.

Ms. O'Callaghan stated that the road was constructed in 1993. In 1994, soon after it was constructed and the HOA was formed, the HOA requested that Caplestone Lane be made a public street. A couple of years later, Council voted to assume responsibility for the intersection of Caplestone Lane and Dublinshire Drive. In that same motion, it indicated that Caplestone Lane was to remain a private street. In 2013, the HOA again requested that the City assume maintenance responsibility for Caplestone Lane.

Ms. Salay asked about the thought process involved in the City's decision to take over the intersection area.
Ms. O'Callaghan responded she could not determine this, based on the meeting minutes.
Ms. Salay asked if any work was done in the intersection area during that time period that would have prompted this to have occurred. It seems an odd thing.
Ms. O'Callaghan responded it was brought up in a Council meeting, and then tabled. When it was brought back to Council, there was little discussion prior to a vote. She was not able to glean anything from that discussion.

<u>Caplestone Lane – Responsibilities</u>
Ms. O'Callaghan stated the maintenance responsibilities for Caplestone Lane, as shown on page 18, are currently handled in this way:

- City provides leaf collection, curbside chipper, yard waste, recycling, trash collection, and maintains the sanitary sewer
- HOA is responsible for maintaining the pavement, curbs and gutters, storm sewer, water (there is a master meter), fire hydrants and snow and ice removal services

Ms. Salay asked how this division of responsibilities compares with other private drives and private streets, such as the Villas at Ballantrae. Does the City do similar things for them, or are there a variety of arrangements in the City within different neighborhoods? What about the two private streets referenced in Muirfield?
Ms. O'Callaghan responded that the City provides the City services listed, except for snow and ice removal as the streets are gated. For the pavement, curbs and gutters for these two private streets, the City does no maintenance.

Ms. Chinnici-Zuercher stated that she learned today that she lives on a private driveway, not a street, but this is the same distribution of what occurs in her neighborhood as well in terms of services.

Ms. O'Callaghan noted that she received information from the Caplestone HOA over the weekend, based on previous maintenance performed on the pavement and curbs. It does appear they have maintained the road; they have done some crack sealing, resurfacing and curb repair in the past. Staff also did an inspection of the road and the curb and found it to be in generally good condition. The pavement condition rating is currently a 76, and the City goal is typically a rating of 80. It is in good condition, and based on that score, the City would not anticipate resurfacing being needed, based on City standards, for another 10 years. The Association submitted to staff their plans for maintenance. The Association planned on resurfacing the street in three years, so that is a discussion item with them.

Ms. Salay asked about the cost estimate for resurfacing.
Ms. O'Callaghan responded that staff estimates the cost at $185,000. In the meantime, some crack sealing could be done at an estimated cost of $5,000. The Association did $1,200 of crack sealing a couple of years ago, and another $500-1,000 several years ago.
Ms. Salay asked about the condition of the curbs and gutters.
Ms. O'Callaghan responded they appear to be in good condition as well.
Ms. Salay stated that the City seems to replace many curbs and gutters in the street maintenance program. This seems to be a frequent occurrence.
Ms. O'Callaghan noted that some of the curb and gutter replacement is based on drainage issues and the need for a good slope. It is also cost effective to address the issues in conjunction with the paving program versus piecemeal.

Mr. Lecklider commented that he has often expressed concerns with sidewalk installation and the extent to which the City does or does not inspect. What is the process for curb and gutter installation and inspections?
Mr. Hammersmith responded that an Engineering Project Inspector is responsible for inspecting all assets that will be accepted by the City as public improvements. If the storm sewer system is to be accepted for maintenance purposes going forward as a public improvement, the City conducts inspections of the installation.
Mr. Lecklider asked if the level of replacement the City is doing is unusual.
Mr. Hammersmith responded that much of this relates to inlets, and several years ago cinder brick was used to shim up the castings. It has deteriorated over time, likely due to salt use in the winter. Cinder brick is not durable and is not used anymore. Prior to cinder brick, clay brick was used.

<u>Comparable Public Streets – Pitlochry Court</u>
Ms. O'Callaghan stated that staff identified similar public streets that do not meet the standards for public streets. There was some uncertainty for a few streets about whether they are public or private. Staff found many comparable streets to Caplestone Lane in terms of condition, features, how they were built, width, lack of sidewalks, etc. that are public and that the City is maintaining today. For Pitlochry Court, a similar street in similar condition – no sidewalks, similar width – the City is currently maintaining this as a public street today.
Mr. Lecklider noted this street would have been built pre-1993.
Ms. O'Callaghan confirmed that is correct, adding that many courts in Muirfield are very similar to Caplestone in terms of how they were built – the features, the width, etc.
Mr. Reiner stated that the Muirfield street structure meets the City's specifications.
Mr. Hammersmith noted that Pitlochry Court does not meet these standards, as it was built in the late 1970s/early 1980s.
Ms. O'Callaghan stated that, similar to Caplestone, the asphalt is a couple of inches thinner than what is required today.
Mr. Reiner asked when the City's specifications were established for public streets.
Mr. Hammersmith responded this occurred in the 1992-1994 time period. The requirements were changed to full-depth asphalt of six inches.
Ms. O'Callaghan noted that in this year's street maintenance program, there are many streets being addressed that have 2-1/2 to 3-inch asphalt depth. This ends up being a full-depth project.
Ms. Salay stated that these streets have apparently held up for a long period of time, unless there was previous repaving by the City.

Mr. Hammersmith stated that some had edge mill and then were capped and overlaid with asphalt. They were not milled all the way down.
Ms. Salay asked for the expected life of a residential street like Caplestone or Pitlochry that does not have a lot of through traffic – once the six-inch depth of asphalt is in place.
Mr. Hammersmith stated that for the 2-1/2 to 3 inches of asphalt streets, the life expectancy is about 15-20 years on average; for full-depth asphalt, the expectancy is for 20-25 years.
Ms. Salay asked for confirmation that Caplestone Lane is 20 or so years of age. Staff would not expect resurfacing to be needed for another 10 years?
Mr. Hammersmith stated that he believes it was resurfaced at least once.
Ms. O'Callaghan added that the Association indicated they "repaved" in 2000. That would have been at the seven-year point after construction. It was likely a mill and overcoat.
Ms. Salay stated that the street is now 15 years past that repaving, so staff estimates it would not likely need to be resurfaced for another 10 years – which translates to a 25-year life for the initial pavement, correct?
Mr. Hammersmith confirmed that is correct. Much of that depends on volume and loads on the street.

Mr. Reiner noted that the reason these streets last this long is that they are private, and there is no through traffic – just the residents.
Mr. Hammersmith responded affirmatively, noting that is the volume issue. The load issue impacts as well, as only trash trucks would use these streets on a regular basis.

Ms. O'Callaghan stated that Cara Court is another example of a public street with similar characteristics as Caplestone; on the east side of the river, there are quite a few such streets that were acquired through annexation – they don't meet public street standards but are public streets.

<u>Caplestone Lane – Considerations</u>
Ms. O'Callaghan noted that the following are considerations for the Committee in regard to response to this request:

1. Status quo. Caplestone Lane remains a private street maintained by the HOA as was envisioned on the plat and discussions at that time.
2. Utilize process for conversion to public street. However, bringing the private street up to public street standards would be cost prohibitive, and the process is tedious; therefore, staff does not believe this is a practical consideration.
3. Staff does believe that Caplestone Lane is in a unique situation in comparison to the other private streets in existence in the City; an option could be that the City obtain a maintenance easement for identified items such as pavement, curb and gutter, snow and ice removal and storm sewer. She noted that if Council were to provide some level of maintenance relief, staff would recommend that the water and the basin remain private since the water is master metered. Private streets are different than private drives, as discussed earlier tonight and Caplestone Lane would be viewed unique in comparison to the other private streets. Staff did identify a few other private drives that may appear to be similarly situated, including: Villages at Coffman Park, Villas at Ballantrae, Scioto Crossing.

Ms. Salay asked if these three neighborhoods are all condominium development.
Mr. Gunderman stated that Villages at Coffman Park are condominiums, with a large common lot and individual buildings on that large lot; the Villas at Ballantrae are single-family lots on a private drive and they have an association as well. Because this one is more recent, the street was built

to a high construction standard; however, the geometry of the street and other features of the right-of-way are not the same. Scioto Crossing was originally planned to be an attached condominium association, with an area at the far north end that was to be detached units. In fact, the northern area has become detached units. They, too, have a substantial association. They have a large common lot, but have individual buildings. Therefore, they are somewhat similar to the Villages at Coffman Park – big common lots and condominium ownership inside the lots. The Villas at Ballantrae has lot for each unit.
Ms. O'Callaghan stated that staff could see a distinction between Caplestone and the other private streets, and then began looking at all the private drives. The majority of them are multi-family, commercial, condominiums – but the three mentioned might try to compare themselves to Caplestone Lane – even though they are officially private drives.

Ms. Salay stated that some cases have recently been reviewed by the Commission that are coming online.
Mr. Gunderman responded that the development is near Ballantrae. One, like Scioto Crossing, began as an attached unit and now wants to convert to a lesser number of detached, single-family homes. Across the future Churchman Road is a new project where a little over half is the same – large lots, individual condominium ownership for detached, single-family units. So between Scioto Crossing and these two projects near or part of Ballantrae, this is a substantial trend – single-family looking houses with condominium ownership among a larger lot. They are all based on private street status.

Mr. Lecklider asked about Caplestone, specifically consideration 2 – conversion to a public street. In addition to the expense of regular maintenance, there is the expense associated with conversion. In this particular case, the expense for the application alone and supporting expertise needed could be $20,000 – and that does not include bringing the street up to public standards with additional asphalt and adding sidewalk. Theoretically, sidewalk could be added. But clearly, the expenses could total well into the six figures so that option is not a consideration, from their perspective.
Ms. O'Callaghan noted that these costs would outweigh the maintenance costs the Association is anticipating for the private street as it currently exists.
Mr. Reiner stated that with the small yards, adding the sidewalk would likely impact the aesthetics of the community.
Mr. Lecklider stated that the neighborhood does not want the sidewalks. What he has heard from the residents is that much of this situation was driven by the original developer's bankruptcy. In reviewing some of the records, in particular the testimony from the early years, it appears that the private street was a simple process to get this development built out by the successor developer. Otherwise, the development would fail. The successor developer was looking for concessions, from what he could surmise, in terms of standards to get this built.
Ms. Readler stated there are two references to trying to preserve trees that she has located in the documents. One was in a staff report from Bobbie Clarke dated September 1, 1994 where she references the developer wanting to preserve trees. The other was from a P&Z meeting on January 7, 1988 where there was discussion of the need to preserve trees. She can provide these documents to Council.
Ms. O'Callaghan noted that the development was originally zoned as a PUD in 1983.

Ms. Salay stated in regard to consideration 2, when looking at all the streets in Dublin that are public and do not have sidewalk that might not meet these standards, it seems unreasonable that

this neighborhood would have to "jump all of these hurdles" to convert to a public street. She is aware this is part of the Code, but it does not make sense to require of an existing neighborhood something that is not required for many public streets. Therefore, the consideration 2 is really off the table for these reasons.

Mr. Lecklider stated that another interesting point is that in areas annexed from the township to the City of Dublin, where the township roads don't meet public standards, those neighborhoods receive the benefits of City services such as maintenance of streets versus a neighborhood like Caplestone. It is a benefit of annexation for township roads not constructed to the City's standards for public streets. Perhaps the requirement should have been that as part of the annexation process, the streets must be brought up to City standards and sidewalks must be constructed.

Ms. O'Callaghan noted one other distinguishing factor between private streets and drives. For many of the private drives, if the City were to maintain those, new and different types of equipment would be needed. Many of the private drives are very different in terms of width, proximity to condos or apartments or multi-family.
Mr. Lecklider commented that in the case of Caplestone, he recalls there were potential legal issues with converting to public streets, such as right-of-way and what that would do to existing status with respect to title, etc.
Ms. Readler stated that there are conditions in the final development plan and the final plat for Caplestone, and those would have to be eliminated if a full conversion to public street was done. If something lesser was done, it could be handled through an easement.

Ms. Salay invited public testimony.

Matt Ottman, 5572 Caplestone Lane stated that his family has resided in Dublin for 13 years and on Caplestone Lane for two years. This street is very different in character, with no sidewalks and few cars, and children can ride bikes in the street. He was not aware this was a problem when they purchased this single-family home. The newer residents of the neighborhood were not aware of this issue of a private street. Until he arrived at the closing on the house, he did not know it was a private street. Younger families are moving in and don't understand the implications of a private street. It is such a different situation for a private, detached, single-family home in Dublin, and they were not expecting to encounter this. They are very happy with their home, but would like some assistance in taking care of the road. Many families walk through their street when using the adjacent bikepaths. He requested that Council consider providing assistance to them as requested.

Ms. Salay asked about contracts to purchase a home and closing documents. For an attorney retained by a home buyer, when does the private street issue come to light?
Ms. Readler responded that there are notations on the plat, and the documents are all recorded. In preparation for closing, this would be identified.
Mr. Lecklider noted that in some of the previous testimony by Caplestone residents about this matter indicated that they had not been advised prior to closing of the private street status. At closing, these residents learned this for the first time. It does appear as a traditional Dublin neighborhood of single-family homes, and one would assume this is a public street with the City bearing responsibility for maintaining it.

Mr. Reiner stated that he has computed the costs of the street maintenance. At $185,000 over ten years – the next repair needed – divided by 35 homes comes to $514 per resident. He is not certain about how the HOA is funded by the residents.

Ms. O'Callaghan noted that their HOA dues are $50 per month. She received this information over the weekend and needs to verify this by talking with the residents. Prior to this year, the dues were $40 per month per household. That is significantly higher than the HOA dues information received in the survey and discussed at the last Committee meeting.
Mr. Reiner noted that a standard Muirfield resident pays fees of $861 per year.
Ms. Salay stated that the Caplestone fee is just for their street.

Mr. Lecklider stated that for this particular case, as he has indicated previously, the City would never approve this as a private street today, given the character of the neighborhood with 36 single-family homes and not gated. Council members, both present and past, have commented with respect to private versus public streets. They have been nearly unanimous in discouraging private streets. Most recently, with Deer Run, there was a long discussion of this topic. Initially, there was opposition to private streets for this subdivision. However, Council was convinced that because the street was gated, a private street would be acceptable.
Ms. Chinnici-Zuercher stated that her recollection is that Mr. Close indicated that the people buying these homes were wealthy and could afford private streets.

Mr. Reiner stated he does not understand the differentiation with a gated private street. These gates open and close to anyone, based on his experience – he doesn't see a big difference between a private street utilized by just the neighborhood and one that has a power gate at the entry that opens and closes. From an architectural and land planning view, Caplestone is a neat neighborhood, with small streets that infer privacy, is well put together, with trees close to the roadway – and perhaps that generated the discussion about the need to save the trees. It infers a private area – whether or not a gate is in place – as the space by design is very private. If the gates referenced were keyed or allowed access only by the residents, that would be different. Whether Caplestone is gated or not is immaterial to this issue.
Ms. O'Callaghan responded that she believes the context of the gated discussion at that time related to the sidewalks, as little traffic was envisioned for the neighborhood, thus less concern about not having sidewalks.

Ms. Salay stated she disagrees with Mr. Reiner regarding the gated aspect. If she encounters a gate, she will assume it is a private area and won't enter. The gate implies this is a private area and typically includes signs indicating so.
Mr. Reiner responded that there are gated streets throughout northern Dublin communities and they do not indicate "private." Lawn services, repair companies, etc. all need access.
Ms. Salay stated that anyone having business on the private gated street could enter, but the casual driver would not drive through the neighborhood due to the gate at the entry.
Ms. Salay stated that Mr. Lecklider has made good points regarding the private versus public street issue and the fact that this private street would likely not be approved today. Certainly, the maintenance is a burden for this small neighborhood to bear. She agrees that the maintenance burden is not reasonable. However, she wants to ensure that a precedent is not set in providing some relief, and she would look to staff to provide the bases about why this would not set precedent. There are a number of other cases coming forward, as Mr. Gunderman has indicated, and this should be a consideration by P&Z – areas within a neighborhood with private

streets/private drives that appear similar to Caplestone with small lots, nice homes, nice area, but private drives.

Mr. Lecklider commented regarding Deer Run subdivision. His recollection is that those private streets are being constructed to City public street standards, correct?
Mr. Gunderman responded that the newest development is on individual lots. These are smaller lots than typically seen in the city. He is quite certain that the street pavement itself – from the back of curb to the back of curb – is constructed to City standards in terms of structure. In terms of the design of the street, he believes the area is small enough that it would meet the street geometry standards for the City as well. Where it falls short is in the sidewalk and water distribution system – fire hydrants, stormwater.
Mr. Lecklider stated that unlike Caplestone, the Deer Run streets are being constructed to City standards.
Mr. Gunderman responded affirmatively in relation to the structural standards of the pavement.
Mr. Lecklider commented regarding the other examples cited by staff – cul de sacs, courts in Muirfield as well as streets on the east side of Dublin – that are public streets, yet were constructed prior to the standards being upgraded in the early 1990s. The City does maintain these streets. For him, this private street topic in general is troublesome. He is aware that the City allowed private streets in Deer Run. He was personally persuaded, to a degree, because it was constructed to City standards in terms of the pavement. While it is gated, the developer was insistent that they did not want sidewalks, and in order to be a new public street, sidewalks were required.
Ms. Salay recalled this discussion, noting that she was persuaded to support the private streets for Deer Run because of the gate. She assumes that the City standards regarding pavement depth are being met for all new street construction – whether private drive, private street, public street.
Mr. Hammersmith responded there is a standard for condominiums, as discussed in the 2012 memo. For the driveways in condominium developments, there are minimum standards. What happened in the past is that the drives were breaking down due to trash trucks, etc.
Ms. Salay stated that, going forward, there should be labeling so that home buyers are aware they are purchasing a home with private streets that are the responsibility of the HOA.
Ms. O'Callaghan responded that there are such signs on those Muirfield cul de sacs referenced and Dunsinane Drive that indicate "private drive."

Mr. Lecklider commented that, in respect to private drives, some of the examples provided in commercial areas, such as the ones near Perimeter, have issues with maintenance and sight lines. It is likely difficult to deal with private landowners to have potholes filled, etc.
Mr. Gunderman responded those tend to be problematic, as they involve more than one commercial property owner and they must cooperate to address the issues. The code enforcement staff works on those problems continually. In the residential areas with private drives/private streets, there is typically one entity dealing with it. Whether they can afford the maintenance or not is a separate issue, but there is typically one entity involved.
Ms. Salay asked if Caplestone Lane HOA is forced and funded.
Ms. Readler confirmed it is.

Mr. Lecklider asked staff to summarize the pros and cons of allowing private drives in commercial areas.
Mr. Gunderman responded that it is difficult to make distinctions. There is a road between Sawmill and Emerald Parkway just north of the Kroger Marketplace. This is a private road yet appears

identical to a City street. From the developer standpoint, there is little difference between the traffic on this roadway and that in the main roadway in the center. They have numerous long-term property owners that will be involved in maintaining the private road when the new development on the north side of this road comes in.
Mr. Lecklider asked if the developer preferred this be a private drive.
Mr. Gunderman responded yes, as it avoided the discussion about sidewalks and permitted a narrower right-of-way.
Ms. Chinnici-Zuercher commented that she is surprised this street was allowed to be private and without sidewalks, given that people are walking to grocery stores. It is more difficult for people to access without walking in the roadway.
Ms. Salay stated that Avery Square and Perimeter Center have a similar issue.
Ms. Chinnici-Zuercher responded that those were built long ago. The Kroger Marketplace is much newer.
Mr. Lecklider stated that for Avery Square, the City asked them in later years to provide more pedestrian paths.

Mr. Lecklider asked if Ms. Salay received a sufficient response regarding her question about the City assuming maintenance responsibility for Caplestone, and what type of precedent would potentially be established. Somewhere in the records, he saw a reference by a resident 20 years ago who suggested there were only 1.5 miles of like streets in the City that could be subject to the same sort of analysis as Caplestone.
Ms. Readler responded that in the PowerPoint, there was information about the ones that are technically private streets and would meet that definition. There are many more private drives existing in the City than there are private streets. It certainly seems unique in the context of the identified public streets. In the second part of the PowerPoint, staff alluded to private drives that appear similar. For Caplestone, it is a unique situation, and whenever the City would enter into a maintenance obligation, it does not automatically bind Council to authorizing future requests. All of those would be analyzed separately. As far as technical designation of private streets, there are not many in Dublin.
Ms. O'Callaghan added that of the private streets, staff is comfortable that Caplestone Lane can be distinguished from the other private streets. The second issue is private drives, and based on research, only Dublin distinguishes private drives from private streets. The three mentioned were the most comparable and action regarding Caplestone would be precedent setting for them.

Ms. Chinnici-Zuercher stated that from a citizens' standpoint, a drive is not a street. She has an address and staff is now indicating her address is on a drive and not a street. From the citizen standpoint, this does not make sense. An address is typically a street address, and now the government is calling this a "drive" and indicating the government is not responsible for it. Apparently, only Dublin differentiates between private streets and drives.
Ms. Salay stated that when one considers some of the other factors, such as living in a condominium or apartment, the environment is very different. Of the private streets, High School Road is maintained by the School District. The other two are located behind a gate that indicates "private drive."

Mr. Reiner noted that he is pleased to hear that the Caplestone Lane neighborhood has a forced and funded HOA. It is commendable that they are looking out to the future to ensure they can cover their expenses.

Ms. Salay asked for a motion.

Mr. Lecklider moved to recommend to Council that the City enter into a maintenance agreement, consistent with the staff report and with a division of responsibility consistent with the staff report, with the understanding that this is a unique circumstance and that any future request would be considered on a case-by-case basis.
Ms. Salay seconded the motion.
Vote on the motion: Mr. Reiner, no; Mr. Lecklider, yes; Ms. Salay, yes.

Ms. Salay stated that her expectation is that a report will be brought to Council in early August. At that point, she would be interested in knowing whether the City's snow plows could be used on this street or if smaller equipment would be needed.
Ms. O'Callaghan responded that in preparation for this meeting, the snowplow drivers viewed this street and determined it would not be problematic. It is similar to the width of streets currently serviced for snow and ice.

Ms. Salay summarized that the Committee will make a positive recommendation, based on the staff report, to Council at an August Council meeting. The representatives of the neighborhood will be notified of that scheduled date.

The meeting was adjourned at 8:04 p.m.

Anna C Clarke
Clerk of Council