

**CITY OF WILSONVILLE
URBAN RENEWAL AGENCY**

The Urban Renewal Agency held a regular meeting on November 18, 2013 in the Wilsonville City Hall immediately following the adjournment of the City Council meeting. Chair Knapp called the meeting to order at 9:15 p.m. Members present: Tim Knapp, Chair, Board Members Starr, Goddard, Fitzgerald and Stevens

Staff included: Bryan Cosgrove, Executive Director; Mike Kohlhoff, City Attorney; Jeanna Troha, Assistant City Manager; Kristin Retherford, Economic Development Manager, and Sandra King, City Recorder.

CITIZEN INPUT - There was none.

NEW BUSINESS

A. URA Resolution No. 237

A Resolution Of The Urban Renewal Agency Of The City Of Wilsonville Authorizing Acquisition Of Property And Property Interests Related To The Construction Of The Barber Street Extension Project From Kinsman Road To Coffee Creek Drive As Needed To Carry Out The West Side Urban Renewal Plan And Authorizing Title To Vest In The City Of Wilsonville.

Ms. Retherford's staff report is included here in its entirety for clarity.

“Staff is seeking Agency authorization to acquire approximately 46,267 square feet of right-of-way and 2.6 acres of property for wetland mitigation, together with temporary construction easements, drainage easements and slope easements from properties identified as 3S1W15 3000 (Lennar Northwest, Inc.), 3S1W15 300 (Lennar Northwest, Inc.), 3S1W14B 800 (David, Marlene, and Sheri Young) and 31W14C 100 (Two Bears Co.).

EXECUTIVE SUMMARY:

The City's Transportation System Plan identifies the Barber Street Extension project (from Kinsman Road west to Coffee Lake Drive and bridging Coffee Creek). The project will improve east-west connectivity in the City and provide an important link between the Villebois development and SMART Central. It is identified as a project in the West Side Urban Renewal Plan and in development agreements and amended development agreements between the City, the Urban Renewal Agency, and Villebois land owners and developers.

Previously, this project was scheduled for construction the summer of 2015/16, but in order to meet growing community demand, staff is seeking to complete property acquisition in an effort to begin construction in 2014/15.

Staff is seeking a June 2014 bid date for this project so that construction can begin next summer. In order to construct these improvements, the Agency needs to acquire approximately 46,267 square feet of right-of-way and 2.6 acres of property for wetland mitigation, together with temporary construction easements, drainage easements, and slope easements from properties identified as 3S1W15 3000 (Lennar Northwest, Inc.), 3S1W15 300 (Lennar Northwest, Inc.),

3S1W14B 800 (David, Marlene, and Sheri Young) and 31W14C 100 (Two Bears Co.). The project will also require the future dedication of right-of-way from City-owned property previously acquired for the SMART Central and WES project, which will be handled through a separate process. All property interests are legally described in Exhibits 1 through 17 to URA Resolution No. 237.

The Barber Street extension project was awarded \$3.2 million in federal funding with an additional \$625,000 in federal funding transferred to this project from the Kinsman Road extension project. Federal funding to date has been used for preliminary engineering. To expedite the project, right of way acquisition will be funded through urban renewal, and construction will be funded with the balance of available federal funding and urban renewal.

As this is a federalized project, the Agency must satisfy all FHWA right-of-way practices including right-of-way certification through ODOT. Consequently, URA Resolution No. 237 includes Agency Board authorization to use condemnation to acquire the needed property interests.

EXPECTED RESULTS:

Staff expects to have appraisals completed by early January 2014 and have offers extended to the property owners by the middle of January. If settlement has not been achieved by the end of the mandatory 40-day consideration period, which terminates the end of February 2014 based on the current schedule, staff will notify the Agency Board of its intent to initiate condemnation proceedings in March. This will allow the Agency to have legal possession of needed property in time to meet our right-of-way certification timeline while compensation issues continue to be addressed through ongoing negotiations and, if necessary, a condemnation trial. Initiating a condemnation action does not preclude staff from continuing to negotiate a settlement with property owners in an attempt to avoid a trial.

TIMELINE:

Project construction was originally programmed for 2015/16, but has been rescheduled to begin in the summer of 2014, with completion in summer of 2015, in order to build out a critical link in the City's west-side transportation network and relieve congestion and improve safety on existing routes.

CURRENT YEAR BUDGET IMPACTS:

As this project is being advanced by a year, the City's FY 2013/14 does not include sufficient funding for right-of-way acquisition activities. A supplemental budget adjustment in the amount of \$450,000 will be needed by the City Council and Agency Board to provide the funding for expenditures in FY 2013/14.

LEGAL REVIEW / COMMENT:

The Resolution is approved as to form. This is a resolution of necessity, which is a jurisdictional prerequisite to condemnation if acquisition by negotiation fails. The road project is a public use and requires federal and state approved permits to fill and remove wetlands. The need to do wetland mitigation is required. After consultation with the federal and state permitting authorities, it was determined that 2.6 acres of wetland mitigation enhancement in the area of the road right-of-way would be needed and be the best practice and location to preserve and maintain this wetland area that eventually drains into the Willamette River, which is a waterway

of the United States. The permitting is so conditioned. As rationally related to the road construction project, the wetland mitigation enhancement is a public use for which condemnation may occur under both the federal and state constitutions and the respective laws and regulations. The Board's determination that the project and the associated property acquisitions are for public use and planned and located in a manner which will be compatible with the greatest public good and least private injury is a legislative determination. The review of the Board's determination is a matter of law to be determined by the court and not by a condemnation jury. The standard of review is that the determination is presumed valid unless the property owner can prove the decision was based on fraud, bad faith, or abuse of discretion.

COMMUNITY INVOLVEMENT PROCESS:

The Resolution is adopted through the public meeting process. The Barber Street extension project went through a public process with adoption of the Transportation System Plan and the Westside Urban Renewal Plan.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY:

This project will provide a critical link in the transportation network that will relieve traffic and improve safety on existing routes. The project will fill a gap in east-west connectivity between the Villebois development and other west-side neighborhoods, SMART Central, WES, and provide superior access for emergency response vehicles.

ALTERNATIVES:

1. Not adopting the Resolution, not going forward with the project, and needing to repay the federal funds.
2. Delaying going forward for a year, which may mean having to seek further federal and state approvals and delaying meeting public transportation demands.
3. Going forward as planned and recommended.”

End of staff report.

Mr. Kohlhoff noted the Agency Board received an updated staff report and resolution before the meeting. Changes appear on page 3 of 5 in the resolution, the phrase “Project and” is included and the third full whereas clause.

Ms. Retherford stated the project is being expedited to start construction the summer of 2014. To do that the city needs to begin its right of way acquisition process immediately. The project is being funded with federal funds, some SDCs and urban renewal. A budget adjustment is necessary for this fiscal year to advance urban renewal funding, because no urban renewal dollars had been budgeted for this fiscal year.

Because there is federal funding in the project the City is following all of the federal acquisition processes and the city will need to have all of the processes reviewed through ODOT and receive ODOT right of way certification which means the timeline is compressed. The acquired property needs to be in hand in advance of bidding out the project. With a federal process no construction can be done under a permit of entry. The resolution includes the authorization to proceed with condemnation if necessary, and to start that process from the outset in order to meet the timelines and move through the ODOT certification process.

Some of the changes Mr. Kohlhoff referred to are tied to that condemnation language so the city can meet the timelines. The city will be acquiring property for the road alignment and also for the wetland mitigation area and associated easements. The city will be acquiring real estate from three different property owners, Lennar Northwest, Inc., the Young family, and Two Bears Co. As soon as staff receives authorization to proceed, the appraisal will begin.

Chair Knapp asked if the Council would receive a report from staff before a condemnation proceeding was initiated. Ms. Retherford said staff would come back to inform the council as to the status of the acquisition and before any condemnation filing was to occur.

Ms. Retherford explained the project will extend Barber Road from where it ends at Kinsman westward into Villebois. It will improve the east-west connectivity for the City and between Villebois and the commuter rail station as well as alleviating congestion on the other east-west routes.

Councilor Goddard asked for an explanation of the “increasing demand” mentioned in the staff report.

Ms. Retherford said the increased demand is due to the additional growth in Villebois, the completion of the elementary school, and other new construction throughout the city. The construction of this project was delayed due to not having available urban renewal funding and the timeline taking it through the ODOT process and getting the necessary environmental permitting. The permits were received this past week which gives the City the green light to go forward with the project.

In response to a number of questions, Ms. Retherford provided additional information. The project cost estimates were lower than originally estimated a few years ago. As we moved through design the costs have been refined and reduced, giving the capacity in urban renewal to fund the project sooner. The city is seeing growth in tax increment on the west side area because of development which allows the capacity to bond, and pay for those bonds to construct the project. Growth and demand for residential housing in Villebois is also driving the project. The Barber section is not funded with developer dollars; however, the portion of Barber connecting on the west side and built through Villebois will be funded by developers.

Mr. Kohlhoff added the city has entered into development agreements in 2004 which outlined the roadway construction responsibilities for both the city and the developers.

Councilor Goddard wanted to know why the city needed to own the property being used for wetland mitigation. Ms. Retherford responded the city has an ongoing requirement to maintain and guarantee it is used for mitigation in perpetuity.

Ms. Retherford stated from the outset of the project the Division of State Lands preferred onsite project area mitigation. The permits the city received mandated onsite mitigation rather than offsite.

Eric Mende, Capital Projects Engineering Manager, further explained the onsite mitigation decision. The areas the city needs on the Young property, both north and south of where the

bridge would go across the wetlands, are designated not only for wetland mitigation but they are also part of the new drainage areas. There are a number of drainage improvements associated with the bridge driven by the additional impervious expanse created by the bridge. In essence, the drainage easements and mitigation areas on those properties make them undevelopable.

Ms. Retherford pointed out the area south of the bridge alignment will not be accessible after the bridge is built; which makes it a good onsite mitigation site. The mitigation site to the north of the road alignment will contain a new drainage channel.

Motion: Ms. Fitzgerald moved to approve URA Resolution 237. The motion was seconded by Mr. Starr.

Chair Knapp believed the road would enhance the connectivity options in the city, and reduce congestion on Wilsonville Road. It also fulfilled the city's responsibilities in the original Villebois development agreements. He thought the mitigation was appropriate and in alignment with the city's environmental responsibilities and insures mitigation is adequate, functional, and maintained over time.

Vote: Motion carried 5-0.

CONSENT AGENDA

- A. Minutes of the October 7, 2013 URA Meeting.

Motion: Ms. Stevens moved to adopt the Consent Agenda. Mr. Starr seconded the motion

Vote: Motion carried 5-0.

ADJOURN

Chair Knapp adjourned the URA meeting at 9:39 p.m.

Respectfully submitted,

Sandra C. King, City Recorder

ATTEST:

Tim Knapp, Chair