



MAYOR & COUNCIL COMMUNICATION

DATE: July 19, 2016
CONSENT
ITEM # 10

AGENDA ITEM: Old Village Phase 2 Street, Drainage and Utility Improvements – Resolution Authorizing Condemnation Proceedings

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Kristina Handt, City Administrator

REVIEWED BY: Sarah Sonsalla, City Attorney
Chad Isakson, Assistant City Engineer

SUGGESTED ORDER OF BUSINESS *if removed from the Consent Agenda*:

- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Engineering/City Attorney.

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approving a Resolution authorizing acquisition of permanent and temporary easements by eminent domain and approval of appraised values of the easements as required to complete the Old Village Phase 2 Street, Drainage and Utility Improvements.

PROJECT BACKGROUND: As part of the Downtown (Old Village) Phase 2 Street, Drainage and Utility Improvements a concrete sidewalk is proposed to be constructed along the south boulevard of 30th Street North. In order to implement the improvements, permanent and temporary construction easements are needed from the properties primarily along the south side of 30th Street North. Through a Cooperative Agreement the City has authorized Washington County to implement the improvements including engineering design, construction administration, testing, right-of-way and easement acquisition, including the use of eminent domain, and retaining a contractor for project construction.

Washington County has identified the required permanent and temporary easements, has obtained professional appraised values of the easements and has made offers of compensation to each property owner in an attempt to reach agreement to have the easements voluntarily conveyed. At this time, however, there remain two properties for which the acquisition of the easements have not been successful. It is therefore the opinion of the project team that it is necessary for the council to initiate condemnation proceedings in order to ensure that the improvements can be completed before the end of the construction

season. Should the council initiate condemnation proceedings the County would continue negotiations in an effort to acquire the easements through a voluntary agreement.

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, a Resolution authorizing acquisition of permanent and temporary easements by eminent domain and approval of appraised values of the easements as required to complete the Old Village Phase 2 Street, Drainage and Utility Improvements. If removed from the consent agenda, the recommended motion for the action is as follows:

“Move to Approve Resolution No. 2016-61 authorizing acquisition by eminent domain and approval of appraised values of easements needed for the Old Village Phase 2 Street, Drainage and Utility Improvements”.

ATTACHMENT(S):

1. Resolution Authorizing Acquisition by Eminent Domain for the Old Village Phase 2 Street, Drainage and Utility Improvements.
2. Resolution Exhibit A – Three Easement Parcel Sketches.

**CITY OF LAKE ELMO
WASHINGTON COUNTY
MINNESOTA**

RESOLUTION NO. 2016-61

**RESOLUTION AUTHORIZING
ACQUISITION BY EMINENT DOMAIN AND APPROVAL OF APPRAISED VALUES
OF EASEMENTS NEEDED FOR OLD VILLAGE PHASE 2 STREET, DRAINAGE AND
UTILITY IMPROVEMENTS**

WHEREAS, the City Council has authorized the project titled Old Village Phase 2 Street, Drainage and Utility Improvements, Project No. 2016.124 (the “Project”), as thoroughly described in the Feasibility Report prepared by Focus Engineering, Inc., dated March 2016 and amended in May 2016, incorporated by reference herein; and

WHEREAS, the Project area includes 500 feet south of 30th Street to County State Aid Highway (CSAH) 14, 30th Street from Lake Elmo Avenue to Lisbon Avenue North, 34th Street from Lake Elmo Avenue to 150-feet west, 35th Street from Lake Elmo Avenue to the dead end, and 36th Street from Lake Elmo Avenue to 200-feet west; and

WHEREAS, the Project’s scope includes improvements necessary to reconstruct streets, improve stormwater drainage conveyance, extend municipal sanitary sewer service, replace aged water distribution system facilities, and complete landscape and streetscape improvements; and

WHEREAS, because the Project involves the reconstruction of Lake Elmo Avenue (CSAH 17), the City has partnered with Washington County to perform the work; and

WHEREAS, the City Council finds that it is necessary for the City to acquire certain permanent easements and temporary construction easements (collectively, the “Easements”) depicted in Exhibit A attached hereto in order to install and maintain the Project; and

WHEREAS, on behalf of the City, the County has engaged a qualified independent consultant to provide an opinion of damages caused by the Easement acquisitions from each impacted property; and

WHEREAS, on behalf of the City, the County has made offers of compensation to the landowners for the Easements consistent with the independent opinions of damages; and

WHEREAS, on behalf of the City, the County has been diligently working with the landowners of the impacted properties to reach agreements to voluntarily convey the necessary easements along those streets within the City's jurisdiction, including without limitation, 30th Street; and

WHEREAS, despite the County's efforts, agreements to convey certain easements that are necessary for the Project have yet to be reached with the following landowners:

- Northern Natural Gas Company (PID#2402921120008)
- Timothy J. & Diana M. Danielson (PID#2402921210008)

WHEREAS, the City Council finds that it is reasonably necessary, proper, and convenient, and in the interest of the general welfare that the City acquire by eminent domain title to and possession of the Easements in furtherance of the Project; and

WHEREAS, the City Council finds that the construction schedule for the Project makes it necessary to acquire title to and possession of the Easements prior to the filing of the final report of the condemnation commissioners to be appointed by the district court; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo in regular meeting assembled that:

1. The acquisition of the Easements is necessary and for a public purpose in furtherance of the Project;

2. The law firm of Kennedy & Graven, Chartered, is authorized and directed to take all steps necessary on behalf of the City to acquire through eminent domain the Easements that are not acquired by voluntary negotiation, including filing an action in eminent domain and using the quick take procedure under Minn. Stat. § 117.042;
3. The appraised values for the Easements adequately reflect the fair market values thereof and are hereby approved for the purposes of Minn. Stat. § 117.042.

Passed and duly adopted this 19th day of July, 2016, by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

EXHIBIT A
Depiction of Easements

[attached]

TOTAL NEW RW 0 SF
TOTAL TE 1050 SF

30TH ST. N.

Existing
R/W Line

Construction
Limits

Existing
R/W Line

Temporary
Easement
= 1050 SF

Existing
R/W Line

Property
Boundary

LISBON AVE. N.



Washington
County

0 20 40
Feet

prepared by:
Washington County Public Works Department
Survey and Land Management Division

Northern_Natural_Gas_111715

**30th Street N.
Easement Acquisition**

Northern Natural Gas Property
2402921120008
Total Parcel +/- 7500 SF

TOTAL NEW RW 1276 SF
TOTAL TE 2480 SF

Existing
R/W Line

30TH ST. N.

Existing R/W = 1850 SF

New R/W = 1276 SF

Construction
Limits

New
R/W Line

Temporary
Easement
= 2480 SF

Property
Boundary



Washington
County

0 20 40
Feet

prepared by:
Washington County Public Works Department
Survey and Land Management Division

danielson_102515

30th Street N. Easement Acquisition

Danielson Property
2402921210008
Total Parcel +/- 32,800 SF