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City Council

Public Hearing on the Exercise of Eminent Domain by the City of Olympia for the Fones Road Improvement Project

Agenda Date: 10/4/2022

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Title

Public Hearing on the Exercise of Eminent Domain by the City of Olympia for the Fones Road Improvement Project

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Hold a public hearing on the exercise of eminent domain by the City of Olympia for the Fones Road Improvement Project.

Report

Issue:

Whether to hold a public hearing on the exercise of eminent domain by the City of Olympia for the Fones Road Improvement Project.

Staff Contact:

Jim Rioux, Project Manager, Public Works Engineering, 360.753.8484

Presenter(s):

Mark Russell, P.E., Interim Public Works Director
Kinnon Williams, Foster Garvey PC

Background and Analysis:

The Project

Fones Road is a critical corridor directly serving commercial, industrial, and residential properties in east Olympia. The condition of the street is poor, sidewalks are scarce, they are neither contiguous nor accessible to people with disabilities, there are no bicycle facilities, and the only marked crosswalk on the half mile corridor between Pacific and 18th Avenues is at the Karen Fraser Woodland Trail. The trail crossing also needs safety improvements.

Public Works has progressed the design of Fones Road to the 90% level of completion, and it has

initiated acquisition of the right-of-way needed to build and later maintain the project. The project design includes, among many features, paths on both sides of the street with dedicated space for pedestrians and bicyclists that will be separated from the travel lanes. These will be the first separated bicycle lanes in our region. The planned access control, roundabout, decreased operating speed, and raised trail crossing will make Fones Road safer and more accessible for everyone who uses it, whether walking, bicycling, or driving.

Approximately 5,000 people live within a half mile, or a ten-minute walk, of Fones Road. Those who live on the east side of it are in a Census Tract that has been designated as a "Historically Disadvantaged Community" by the US Department of Transportation. 2020 Census data also indicates that this is a more racially diverse part of the community than other parts. Investing in this community reflects the City's commitment to improving equity. Those who drive will benefit from the increased safety and improved vehicle flow on the corridor, and those who do not will find it much easier to get around.

Additionally, Fones Road is an important employment center, particularly for people working in the retail and industrial sectors. In fact, in 2021 the City and Crown Beverage Packaging, located at the north end of Fones Road, earned the Economic Development Award from the Washington Economic Development Association for business retention. Improving truck access and circulation to this employer and others along the corridor is a key strategy for business retention.

When the project is done, those who live or work along Fones Road will be able to comfortably walk or bike to, among other places:

- Transit stops on Pacific or 18th
- Shopping or employment destinations at the north end of the corridor
- The regional trails network
- Homes, including a large mobile home park, along the south end of the corridor

Grant Funding

The City has received a total of \$6,064,571 in grant funding for this project from various sources, shown in the table below. Under federal grant rules, if we do not obligate funds for construction by April 30, 2023, we risk not only needing to return the federal grants but also impacting the entire Thurston Region's ability to receive future grants.

Therefore, we estimate that right-of-way acquisition must be done by February 15, 2023. This will allow enough time for the Washington State Department of Transportation to certify it, enabling us to obligate funding for construction by April 30th.

Year	Grant Agency	Phase	Program	Amount
2018	FHWA	Design	Surface Transportation Program (STP)	\$1,176,803
2020	FHWA	Construction	Surface Transportation Program (STP)	\$2,040,118
2020	FHWA	Construction	Congestion Mitigation and Air Quality (CMAQ)	\$463,875
2020	FHWA	Construction	Transportation Alternatives (TA)	\$383,775
2021	TIB	Construction	Urban Arterial Program (UAP)	\$2,000,000
			TOTAL	\$6,064,571

FHWA is the Federal Highway Administration, and the Transportation Improvement Board is a state funding agency.

Eminent domain

City staff make every effort to purchase right-of-way from each property owner, which is a routine part of many City projects. In every instance, we are required to offer a fair market value for the land purchase and follow multiple procedures to ensure the negotiation process is fair for everyone involved.

Eminent domain is sometimes a necessary tool for the City to use, such as when we are unable to finish negotiations on time. As with purchasing right-of-way, eminent domain requires that we pay property owners fair market value for their land. Additionally, using eminent domain requires us to follow "due process," meaning that the property is acquired in a court proceeding.

We will continue to make every effort to purchase right-of-way. However, using eminent domain may become necessary in order to acquire the property in time to meet our obligation date. Both City and consultant staff have communicated extensively with each affected property owner, including officially notifying them of this public hearing and the pending City Council action regarding right-of-way acquisition.

Neighborhood/Community Interests (if known):

The Fones Road Project was included in the Transportation Master Plan which was reviewed by the public, and accepted by the Council in February 2021. The project is in the current Capital Facilities Plan (CFP), as well as prior year CFPs. Each year, the CFP is presented to the public for review prior to City Council approval.

Completion of this project will transform this corridor into a safer, multimodal street. The street will better serve people of all abilities and increase access to transit in 18th and Pacific Avenues.

Options:

1. Hold a public hearing on the exercise of eminent domain by the City of Olympia for the Fones Road Improvement Project. Staff will bring Council a proposed Ordinance regarding eminent domain for consideration at a future meeting. This will ensure that right-of-way acquisition continues on a timeline needed for successful completion of the project.
2. Hold a public hearing on the exercise of eminent domain by the City of Olympia for the Fones Road Improvement Project at a later date. This could delay the right-of-way acquisition process and potentially jeopardize grant funding, not only for Olympia but all jurisdictions in the Thurston Region.
3. Do not hold a public hearing on the exercise of eminent domain. If acquisition agreements cannot be reached with property owners along Fones Road in a timely manner, then grant funding for the project and others within the region will be in jeopardy.

Financial Impact:

Costs associated with fees for eminent domain proceedings have been included in the current budget estimate for this project. The total project budget is approximately \$16 million.

Attachments:

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Fones Road Before/After Visualizations