

February 26, 2018

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance authorizing and providing for the acquisition of interests in land for the purpose of constructing the Fire Station 10 Project; providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiation of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.

FISCAL IMPACT

The 2017-2023 General Capital Investment Program, specifically the Fire Facility Master Plan No. PS-63, includes \$10,100,000 for property acquisition and potential associated legal costs.

STAFF CONTACTS

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POLICY CONSIDERATION

Bellevue City Code/State/Federal law:

- Under Bellevue City Code 4.30.010 and RCW 8.12.040, major real property acquisitions must be approved by City Council. RCW Chapter 8.12 establishes the authority and procedure for cities to acquire property by condemnation for streets, street improvements and other public purposes. The statutes provide that when a city seeks to condemn property for a public purpose, it must first provide notice in the local newspaper as well as by certified mail to the affected property owners. The statutes further provide that the city indicate that compensation for acquisitions be made from applicable city funds, or, if applicable, by special assessment upon the property benefitted by the project.
- Under WAC 458-61A-206, transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain are not subject to real estate excise tax.
- Under 26 U.S. Code § 1033, transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain may qualify for federal tax benefits, including tax-deferred exchanges.

City Practice:

- The City's Real Property Policies and Procedures provide that property rights necessary for public use are to be acquired through negotiation and voluntary transactions whenever possible, and,

when it is necessary to exercise condemnation authority, that such property be condemned and taken subject to payment of just compensation in the manner provided by law.

- In support of these policies and property acquisition best practices, City staff will work with property owners to achieve voluntary, negotiated transactions both before and after Council grants condemnation authority. These efforts continue throughout the acquisition process, including where a condemnation action has been commenced in court.

BACKGROUND

Fire Long-Range Facilities Plan

In 2014, the City of Bellevue Fire Department hired a consultant and completed a long-range Facilities Master Plan. The goal of the study was to ensure that the Fire Department has the type of facilities which will enable firefighters to continue excellent public service well into the future, while addressing the rapid growth and change occurring in the community today.

Building a new Fire Station 10 is a key recommendation of the Fire Facilities Master Plan, which evaluated the department's response capabilities and concluded "that the most effective option to assure three-minute travel time, adequate vertical response, and maximum weight of response coverage is to plan for a new station in the Downtown area." The new Fire Station 10 is planned to house four individual companies to include a Battalion Commander, a 3-person Engine Company, a 2-person Basic Life Support Unit and a 2-person Advanced Life Support Unit in a building of approximately 20,000 square feet. This new station will be an addition to the existing fire response network of nine other stations and will improve response times for fire and medical emergencies in the Northwest Bellevue, Downtown and Bel-Red areas. In November 2016, City of Bellevue citizens voted to pass a 20-year Fire Capital Levy to fund the department's facilities capital needs, which includes the design and construction of a new Fire Station 10.

Site Selection

An interdepartmental team representing nine departments was assembled to identify and analyze potential sites for Fire Station 10. Based on the coverage gaps identified in the Fire Facilities Master Plan, the master plan consultant defined a geographic area for the station siting. The team identified eighteen sites in or near this area including properties that were undeveloped or under-developed, and City-owned properties. Criteria used to evaluate the sites included:

- Response time/coverage
- Site access/traffic impacts
- Medic 1 freeway access
- Cost to acquire, develop and operate
- Site configuration
- Land use impacts

Based on application of this evaluation criteria to the eighteen sites, the northwest corner of 112th Avenue Northeast and Northeast 12th Street, immediately north of McCormick Park, was identified as the recommended site for Fire Station 10. This site includes up to nine parcels with six property owners that are zoned R-4 and encompass 2.82 acres (see Attachments A and B). On September 12, 2016, staff provided information to Council on the site selected for Fire Station 10. On March 6, 2017, staff provided additional information to Council on the site selection process, community feedback and alternate sites that had been proposed by citizens.

Negotiations with Property Owners

In late 2016, staff contacted the six property owners to inform them that the City was proposing to purchase their property and to discuss this project and the acquisition process with them. Staff worked with the owners to obtain permission to enter the properties to conduct due diligence studies and appraisals. In mid-2017, staff made offers (which were contingent on Council approval) to all six owners and have been negotiating with the owners to reach agreeable terms for the sale of their properties. The owners were informed that if mutual agreement could not be reached through voluntary negotiations, the City would seek approval from Council to use the power of eminent domain to acquire the property rights necessary for the project. Three of the property owners have agreed to terms for the sale of their property, and staff remains in various stages of negotiations with the other three owners.

While the proposed Ordinance would provide condemnation authority to ensure that all the required property rights can be obtained in a timely manner, it is staff's intention to continue to negotiate with all affected property owners with the aim of arriving at mutually agreeable purchases for all needed property rights.

Design for Fire Station 10 is scheduled for Spring 2018 through early 2020 followed by construction to begin in 2021. Adoption of the proposed Ordinance would empower the City Attorney's Office to commence a condemnation action to keep the project on schedule. Not having a condemnation Ordinance in place could adversely impact the project schedule and risk delay to the start of construction.

Finally, the condemnation Ordinance also enables property owners to sell their property to the City, by agreement, in lieu of condemnation. This benefits property owners by exempting their transactions from real estate excise tax and providing for tax-deferred property exchanges.

Attachment A is a table identifying the property rights needed for the project.

As required by condemnation statutes, notice of Council's meeting to consider adoption of this Ordinance has been mailed to the taxpayers of record of the listed properties, and has also been published in *The Seattle Times* and the *Daily Journal of Commerce*.

EFFECTIVE DATE

If approved, this Ordinance becomes effective on March 8, 2018.

OPTIONS

1. Adopt the Ordinance authorizing and providing for the acquisition of interests in land for the purpose of constructing the Fire Station 10 Project; providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiation of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.
2. Do not adopt the Ordinance and provide alternative direction to staff.

RECOMMENDATION

Option 1

MOTION

Move to adopt Ordinance No. 6401 authorizing and providing for the acquisition of interests in land for the purpose of constructing the Fire Station 10 Project; providing for condemnation, appropriation, taking of land and property rights necessary therefore; providing for payment; directing the initiation of appropriate proceedings in the manner provided by law for said condemnation; and establishing an effective date.

ATTACHMENTS

- A. Property Rights Table
 - B. Vicinity/Project Map
 - C. Copy of Publication Notice
- Proposed Ordinance No. 6401

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

N/A