



136 North Monroe Street
Waterloo, WI 53594-1198
Phone: (920) 478-3025
Fax: (920) 478-2021
www.waterloowi.us

**Public Notice of a Committee Meeting
Of the Common Council of the City of Waterloo**

Pursuant to Section 19.84 Wisconsin Statutes, notice is hereby given to the public & news media, that the following meeting will be held.

Committee: Public Works & Property Committee

Date & Time: Thursday, October 1, 2015 at 6:30 p.m.

Location: Council Chambers of the Municipal Building, 136 N. Monroe Street

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MEETING MINUTES: September 3, 2015
3. PUBLIC COMMENT
4. UNFINISHED BUSINESS
 - a. 333 Portland Road, Review Of Property Conditions & City Attorney Communication
5. NEW BUSINESS
 - a. Bid Review And Bid Recommendation To City Council - Public Works Department Cold Storage Space Addition, 211 Hendricks St (Bid Submittal Deadline: 10/1/2015 4:00 pm)
6. ADJOURNMENT

Mo Hansen
Clerk/Treasurer

Committee Members: Springer, Ziaja and Stinnett

Printed, Posted, E-mailed and Distributed: August 28, 2015

PLEASE NOTE: IT IS POSSIBLE THAT MEMBERS OF AND POSSIBLY A QUORUM OF MEMBERS OF OTHER GOVERNMENTAL BODIES OF THE MUNICIPALITY MAY BE IN ATTENDANCE AT THE ABOVE MEETING(S) TO GATHER INFORMATION. NO ACTION WILL BE TAKEN BY ANY GOVERNMENTAL BODY OTHER THAN THAT SPECIFICALLY NOTICED. ALSO, UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO ACCOMMODATE THE NEEDS OF DISABLED INDIVIDUALS THROUGH APPROPRIATE AIDS AND SERVICES. FOR ADDITIONAL INFORMATION OR TO REQUEST SUCH SERVICES PLEASE CONTACT THE CLERK'S OFFICE AT THE ABOVE LOCATION.

Mo hansen

From: Waterloo City Hall <cityhall@waterloowi.us>
Sent: Wednesday, September 16, 2015 12:17 PM
To: dpw@waterloowi.us; Barry Sorenson (bsorenson@wppienergy.org);
dpsorenson@waterloowi.us
Subject: FW: 333 Portland Road / condemnation process

FYI Gary, Barry and Denis -- please see below.

Mo Hansen
Clerk/Treasurer

From: Waterloo City Hall [mailto:cityhall@waterloowi.us]
Sent: Wednesday, September 16, 2015 12:15 PM
To: bspringr@charter.net; Ziaja, Matt <matt.ziaja@gmail.com>; Angie Stinnett <angie.stinnett@yahoo.com>
Cc: Lindsay Reynolds <kittymania8@gmail.com>; thomastr2000@yahoo.com; Ron Griffin (griffinrepair@gmail.com) <griffinrepair@gmail.com>; jeni@highenergydj.com
Subject: FW: 333 Portland Road / condemnation process

TO: Public Works & Property Committee and other Council Members

As a follow-up to the August and September Public Works and Property Committee meetings, Mayor Thompson has asked the City Attorney to outline a condemnation process for the property at 333 Portland Road. Below is the City Attorney's outline on this subject. Prior to reading the City Attorney's outline, the Mayor asked that a 90 day window of time be defined in which steps can be taken proceed with condemnation of property.

Mo Hansen
Clerk/Treasurer

From: Timothy D. Fenner [mailto:TFenner@axley.com]
Sent: Monday, September 14, 2015 11:56 AM
To: 'Waterloo City Hall' <cityhall@waterloowi.us>; Andrea V. Roth <ARoth@axley.com>; Gesina M. Seiler <GSeiler@axley.com>; City of Waterloo, Mayor (mayor@waterloowi.us) <mayor@waterloowi.us>
Cc: Andrea V. Roth <ARoth@axley.com>
Subject: RE: 333 Portland Road / condemnation process

Mo:

This is in response to your email as well is our recent telephone conversation. As I understand it, the subject property has some structures located thereon, which are in disrepair. Also, there appears to be some significant environmental contamination that requires remediation. The extent of the contamination as well as the cost of remediation are unknown at this time. The property is located within Tax Incremental Finance District No. 3. You've indicated that the long-term goal of the city is to acquire the property, remediate the contamination, and then have it developed as a commercial/industrial site. The cost associated with acquisition, remediation and development would come from the tax increment.

Your email raises two issues that need to be addressed. They are:

I. Raze Order.

Section 66.0413 Stats allows a municipality to issue an order requiring a building to be removed, if the building is old, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair. Depending upon the magnitude of the repair, the property owner has the option of either repair or removal. If the cost of repair doesn't satisfy the statutory formula, then removal is the only option. I don't think that the statute would be applicable to the circumstance you've described. It is really not a statute that allows a municipality to acquire a property for subsequent redevelopment. That is generally done through the condemnation statutes.

II. Condemnation

In order to condemn property, there has to be a public purpose. The property is part of the tax incremental financing district, and you've indicated that it is a blighted property that was considered in satisfying the blight requirements when the tax incremental financing district was originally created. Since this is not residential property (and please verify that I am correct in my assumption), in order to exercise condemnation authority, the following has to be satisfied. For condemnation purposes, blighted property means any property that, by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air, or sanitation, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, or the existence of conditions that endanger life or property by fire or other cause, or any combination of such factors, is detrimental to the public health safety or welfare. Before commencing condemnation of such property, where the condemnor intends to convey or lease the property to a private entity following its acquisition, the condemnor must make written findings and provide a copy of the findings to the owner of the property. The findings shall include all of the following: 1 the scope of the redevelopment project encompassing the owner's property, 2 the legal description of the redevelopment area that includes the owner's property, 3 the purpose of the condemnation, and 4 a finding that the owner's property is blighted and the reasons for that finding. Therefore, in order to condemn the subject property the city would have to make the foregoing determination which would mean hiring the appropriate consultant, who can quantify and qualify the extent of the blight and prepare the necessary findings. You may want to begin this process now given the time involved. Once the findings have been made, then there is a public purpose in the city acquiring subject property as part of the redevelopment of the area.

Once the foregoing has occurred, then the city can proceed with an acquisition. Since the city's acquisition of this property is not for mass transit, highways, airports or sewer purposes, the condemnation would have to be done in accordance with section 32.06 stats. The steps in this process are:

1. Make sure the appropriate blight determination has been made pursuant to section 32.03 (6) Stats.
2. Obtain the correct legal description and have the preliminary title work done to determine ownership of the subject property
3. If the project will involve any of the matters discussed in section 62.23 (5) stats, the plan commission may have to first give its recommendation to the Common Council. You should take a look at that statute to see if any of the activities described therein, may be involved in the city project as it affects this property. If so, then referral is mandatory. If any streets are going to be widened, the plan commission may have to act under section 62.23 (10).
4. If the project will result in a person, farm or business being "displaced", then the city must prepare a written relocation plan and a relocation assistance service plan, to be approved by the appropriate state agency. It is my understanding that the subject property is currently vacant so that this step could be avoided. If not, the plans must be prepared before any further steps are taken.
5. The Common Council must hold an open meeting for purposes of adopting a resolution setting forth the "necessity" for the taking of the subject property. The city has the authority to make the determination of necessity, as opposed to any court or other third-party. Following adoption, the resolution must be published or posted.
6. The city must hire a real estate appraiser. The appraiser should conduct a full narrative appraisal. Once the city is satisfied with the appraisal, it is given to the property owner with a copy of certain required pamphlets and notices. The owner then has 60 days from date of receipt of the appraisal to review it. The owner also has the right to obtain an

additional full narrative appraisal; and the city is required to pay the reasonable costs thereof. The city must advise the owner of this right.

7. Following expiration of the 60 day period, the city must consider the results of any appraisal by the owner; and then negotiate with the property owner towards a voluntary acquisition of the property. As part of the negotiations, certain additional information must be given if the city is acquiring other properties in connection with the project. If the negotiations are successful, then an offer to purchase is entered into and the transaction is closed. If it is not successful, then the city would issue a jurisdictional offer to the owner and mortgagee. The property owner has 20 days from date of personal service of the jurisdictional offer within which to accept. If the offer is rejected, then the city records a lis pendant. After expiration of the 20 day period, then the city must petition the circuit court to refer the matter to the county condemnation commission.

6. Following receipt of the petition, the court holds a hearing and will refer the matter to the condemnation commission for determination as to just compensation. Appraisers will appear at this hearing. Title to the property would be vested in the city as of the date the city makes payment of the award for just compensation. Subsequent appeals can be taken.

7. Since this would be a "fee simple" acquisition of the subject property, the award of compensation would be the fair market value of the property determined as of the date of the taking. Keep in mind that if there is significant environmental contamination, that would be reflected in determining fair market value. There's been a series of cases dealing with this issue. In short, the issue of environment contamination is reflected in the appraisal process.

The foregoing is a thumbnail sketch of the steps that need to be taken. I have omitted many of the more technical steps. If you're going to proceed along the lines of condemnation, it is essential that a plan of action be developed, together with a timetable. My experience is that in order to acquire the property through condemnation, it is a six to a nine-month process, if you were to begin the process today. You could proceed with steps numbers one through three at this time. It would probably take you 90 days to do just those steps. I would also include within that timeframe the hiring of an appraiser. In terms of appraisal fees, generally a full narrative appraisal will cost you somewhere between \$3500-\$5000 each.

I hope this answers the questions you have raised. Condemnation is a technical matter; and you will need the assistance at virtually every step of the way from the city attorney, the appraiser, and probably the city engineer. Please advise.

Attorney

Timothy D. Fenner
Axley Brynelson, LLP
d: 608.283.6733 | c: 608.219.8169
o: 800.368.5661
TFenner@axley.com

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2 E. Mifflin St., Ste 200
• Madison, WI 53703 • P.O. Box 1767 • 53701-1767 • Fax: 608.257.5444

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From: Waterloo City Hall [<mailto:cityhall@waterloowi.us>]

Sent: Monday, September 14, 2015 8:28 AM

To: Andrea V. Roth; Gesina M. Seiler; Timothy D. Fenner

Subject: 333 Portland Road / condemnation process

Tim,

Negotiations with the Gauthier estate have broken off with the executor's rejection of the a revised offer as prescribed by the City Council at its 9/3/2015 meeting. Mayor Thompson is asking that a condemnation process for the property be prepared ready for execution 90 days from the time of the offer expired (call that date 9/8/2015).

No formal designation has been made by the Building Inspector, but the property has been a blighting influence for a number of years.

Can you summarize a condemnation process, describing how it differs from a raze order? Please include Mayor Thompson (mayor@waterloowi.us) in on your reply.

Thank you.

Mo Hansen

Clerk/Treasurer

City of Waterloo

office: 920.478.3025

CityHall@Waterloowi.us

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