

**COUNCIL ACTION FORM**

**SUBJECT:** NOTICE OF INTENT TO PROCEED WITH THE RAW WELL WATER TRANSMISSION PIPELINE PROJECT AND OBTAIN EASEMENTS BY EMINENT DOMAIN, IF NECESSARY

**BACKGROUND:**

The 2007-08 Capital Improvement Plan budget includes \$50,000 for purchase of right-of-way easements for the raw well water transmission pipeline. In the summer of 2007, Water and Pollution Control Department staff began the preliminary planning. There are four main objectives for this public improvement project with a total estimated cost of \$4,000,000.

1. Significantly increase the productivity of the city's existing well field by approximately one million gallons a day by reducing existing pipe friction losses
2. Extend the well piping system closer to future well fields
3. Provide increased reliability and redundancy for approximately 65 percent of the current supply capacity
4. Balance the responsibility to provide for the needs of our water utility customers and minimize the impact to affected property owners

In October 2007, FOX Engineering Associates, Inc. was retained as the engineering consultant to assist with detailed planning and design. Staff have worked with FOX Engineering to identify the most cost-effective and feasible route for the 30-inch pipeline. The selected route will require permanent easements from six different property owners.

Staff invited all potentially affected property owners to an open house on November 27, 2007. The primary purpose of the open house was to assist property owners in understanding the need for the project. It also allowed those potentially affected to ask questions and give feedback to staff. In addition, either staff or FOX Engineering has met individually with each of the property owners where permanent easements are needed. Staff have also contacted residents in areas where permanent easements will not be required but where construction-related disruptions will occur.

Provisions in Section 6B.2A of the Iowa Administrative Code require written notification to each potentially affected property owner at least 30 days prior to the time the City Council adopts a measure to declare its "intent to proceed with a public improvement

and acquisition, by condemnation if necessary, of the property.” This notice was approved at the February 12, 2008 Council meeting. That meeting also set March 25 as the date of the public hearing.

Although staff are hopeful the easements required can be negotiated without condemnation, it is conceivable that an agreement for a voluntary sale may not be reached; and condemnation might become necessary sometime in the future. Therefore, the City is required by law to notify all potential property owners before actually moving ahead with any part of this project. The attached form meets the requirement set forth by Iowa law and was mailed to affected property owners on February 13, 2008. In addition to the legal notice, staff have made efforts to keep affected citizens informed by mail and by postings to the department’s website project updates to assist them in understanding the various phases of the pipeline project. Because of the requirements imposed by state law, no offers to purchase easements have been made.

**At this time, staff is requesting the City Council to declare the city’s intent to proceed with the raw well water transmission pipeline project and authorize staff to purchase the necessary easements for the project, using condemnation if necessary. Staff will then initiate appraisals on the parcels identified for purchase of easements for the raw well water transmission pipeline.**

Each property owner, by right, will have the opportunity to meet with the appraiser before the appraisal has been finalized and be provided a copy of the appraisal when offers to purchase easements are made. Once offers have been made, a waiting period of 10 days commences before the City or its representative can begin negotiations with the property owners for purchase of the easements. The City is required by state law to make good-faith efforts to reach an agreeable purchase price before the process of eminent domain can begin. Again, staff is hopeful that voluntary agreements can be reached, but it is conceivable that condemnation might be necessary to complete the project.

Staff has received suggested route modifications from four of the property owners who will be impacted by permanent easements through their property.

For Story Construction, a route adjustment was suggested and agreed to that resulted in a \$40,000 cost savings to the project. This allowed more of the pipeline to be placed in the floodway and decreases the need to move additional materials stored by Story Construction. This minor adjustment is reflected in the preferred route.

Representatives of the Lange parcel proposed the pipeline to be located on the east edge of the property. Due to increased construction prices of clearing and grubbing of multiple large oak trees and burying the pipe deeper to avoid existing old river channel ox bows, as well as additional length of pipe and extra fittings, the consulting engineer estimates the cost of this suggestion to be \$250,000 more than the estimate of the preferred route. This route modification is not reflected in the preferred route.

Regarding the Pyle property, the owner would like to either move the pipeline west of the river or put the pipeline on the very west edge of his property. Due to future costs associated with an additional stream crossing to extend closer to the future city well fields, staff estimates the additional cost of the first suggestion to move the pipeline to the west side of the river to be \$209,000. Given additional construction costs associated with extra fittings for extra bends in the pipeline and additional length of pipeline, staff estimates the cost of his second suggestion to be \$90,000 more than the preferred route. These route modifications are not reflected in the preferred route.

Regarding the Hickory Park parcel, the owner would like to move the pipeline as close to the west edge of the property as possible. The estimated cost of this modification is \$24,000 more than the preferred route due to additional pipe length and fittings. Moving the pipeline closer to the South Skunk River could mean stream bank stabilization may be required. This requirement and the costs associated have not been determined at this time. These route modifications are not reflected in the preferred route.

#### **ALTERNATIVES:**

1. Approve a resolution to proceed with the raw well water transmission pipeline public improvement project and authorize staff to acquire the necessary easements for the selected route, using eminent domain if necessary.
2. Direct staff to modify the selected route on the identified affected properties and approve a resolution to proceed with the raw well water transmission pipeline project with modifications and authorize staff to acquire the necessary easements for the project, using eminent domain if necessary.
3. Direct staff to redesign the project to alter the number and location of impacted properties, requiring the public notification process to start over, if necessary by law.
4. Do not initiate any activity on this project at this time.

#### **MANAGER'S RECOMMENDED ACTION:**

The raw well water transmission pipeline project is an important component of the water utility's source water development plan. The pipeline will serve all customers of the water utility by providing increased reliability and redundancy for the raw water delivery system and will actually increase the available raw water capacity. Staff is working closely with the consultant to prepare a route that balances the important goals of minimizing the cost to all customers, while minimizing the impacts to individual property owners. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 and approve proceeding with the raw well water transmission pipeline public improvement project and authorizing staff to acquire the necessary easements for the project, using condemnation if necessary.

Based on our conversations, it appears that three of the six property owners who will be impacted by permanent easements are suggesting modifications to the consultant's preferred route. **If the City Council wishes to direct staff to modify the preferred route within the identified affected property owners in response to any of the property owners' suggestions, the Council should adopt Alternative No. 2 and identify the changes to be made.** If the City Council wishes to direct staff to redesign the project altering the number and location of impacted properties, the Council should adopt Alternative No. 3 and refer the matter back to staff to notify the public of the change in the route.

**NOTICE OF A PUBLIC HEARING TO CONSIDER A PROPOSED PUBLIC  
IMPROVEMENT PROJECT TO  
CONSTRUCT A RAW WELL WATER TRANSMISSION PIPELINE**

**To owner(s) and any contract purchaser(s):**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Under the provisions of Section 6B.2A of the Code of Iowa, a governmental body which proposes to acquire property under power of eminent domain for a public improvement project is required to give notice of intent of a proposed public improvement project to all property owners and contract purchasers, whose property or parts thereof, or interest therein, proposed to be acquired for the project, which may be subject to condemnation.

**1. NOTICE OF PROPOSED PUBLIC IMPROVEMENT**

Notice is hereby given that the City of Ames, Iowa (the Acquiring Authority) will consider giving final approval to fund the site-specific design, the selection of the proposed route or site location for this public improvement, and to authorize the completion of this public improvement. The Acquiring Authority proposes, but has not yet given final approval, to open negotiations to acquire the property, easement(s), or other rights in real property necessary to construct this public improvement, or to institute condemnation proceedings, if necessary to do so.

**2. DESCRIPTION OF THE GENERAL NATURE OF THE PUBLIC IMPROVEMENT**

The proposed public improvement project is as shown on a project plan prepared by: FOX Engineering Associates Inc., Ames, Iowa; and consists of approximately 14,000 feet of 30-inch water main for the purpose of conveying raw water from city wells to the water treatment plant.

**3. INTENDED USE OF PRIVATE PROPERTY TO BE ACQUIRED**

- A. The proposed route or site location of the above-described public improvement is shown on the project plan.
- B. If the Acquiring Authority undertakes to construct the above-described project, it will be necessary to acquire land for water pipeline purposes and, as may be necessary, to acquire permanent water main easements and temporary construction easements by negotiated purchase; otherwise, it will be necessary for the City to proceed to institute condemnation to acquire the property rights needed to

construct and maintain the public improvement.

**4. ACTION REQUIRED TO PROCEED WITH THE PROJECT: OPPORTUNITY FOR PUBLIC INPUT**

In order to proceed with the above-described project and complete the acquisition of property and property rights needed for the project, the Acquiring Authority will hold a public hearing to consider giving final approval to fund the site-specific design for the public improvement, to make a final selection of the route or site location for the public improvement, to proceed with the construction of the project, and to authorize acquisition of private property rights needed for the project by condemnation proceedings, if necessary, on the 25th day of March 2008. You may appear in person at the public hearing and provide input into this process. You may also contact the Acquiring Authority in writing not later than 12:00 p.m. the 25th day of March 2008.

You may contact Christina Murphy, P.E., Assistant Director, Water & Pollution Control Department at 300 E. 5<sup>th</sup> St., Bldg. 1, Ames, Iowa 50010, and by phone at 515-239-5150 for information regarding the public improvement.

**5. TIME, DATE, AND PLACE FOR PUBLIC HEARING**

The public hearing will be held at 7:00 p.m. on the 25th day of March 2008 in Council Chambers at the city's regular council meeting.

The Project Plan and Statement of the Rights of Individual Property Owners are on file and available for review at the Ames Water and Pollution Control Department, 300 East 5<sup>th</sup> St., Building 1, Ames, IA 50010.

\_\_\_\_\_  
(Printed Name & Title)

\_\_\_\_\_, Iowa

Attachment: Statement of the Rights of Individual Property Owners

## Water and Pollution Control Department

### Timeline Regarding the Raw Well Water Transmission Pipeline

February 12, 2008	30-Day Notice of Public Hearing regarding the public improvement project declared at meeting of Ames City Council. This Notice is required to be mailed to property owners for whom easements for the project are required. It will also be mailed to those who will be temporarily impacted during the construction process (i.e. 6 <sup>th</sup> Street residents).
March 25, 2008	Public hearing for Public Improvement Project. Council will approve a resolution deeming the project necessary and allow the project to proceed and authorize obtaining easements, using condemnation, if necessary.
March 28, 2008*	Property owners of locations where permanent easements need to be purchased will be contacted by the appraiser hired by the City.
April 23, 2008*	Preliminary easement purchase offers, based on appraisals, will be sent to affected property owners.
May 5, 2008*	After a 10-day waiting period, as stated in the Iowa Administrative Code, city staff and/or their representative will contact property owners to begin processing the easement documents and conduct any additional negotiations.
June 10, 2008*	Easements are obtained and filed, council approves and authorizes payment
Aug/Sept 2008*	Preliminary plans and specifications are approved, bid letting, and contract award
October 2008*	Construction begins
October 2009*	Estimated project completion

\* These dates are preliminary and subject to change.