

**COUNCIL ACTION FORM**

**SUBJECT: NOTICE OF INTENT TO PROCEED WITH THE NORTH RIVER VALLEY WELL FIELD & PIPELINE PROJECT AND OBTAIN EASEMENTS AND PROPERTY BY EMINENT DOMAIN, IF NECESSARY.**

**BACKGROUND:**

The Ames Water Treatment Plant relies on a network of 22 potable supply wells as the source of drinking water for the community. As old wells fail and need to be replaced and as demand for treated water increases, additional wells must be drilled.

The location for a new well field has been chosen using a detailed ground water hydraulic model. The new wells are proposed to be constructed on land north of East 13<sup>th</sup> Street and east of the Skunk River. Development of the proposed well field will consist of an interconnecting pipeline and three new wells, each with a capacity of 1,000 gallons per minute. The planned new well field will add an estimated 2.6 million gallons per day (mgd) of raw water that will be delivered to the City's Water Treatment Plant.

The 2016-17 Capital Improvements Plan outlines the multi-year budget that includes \$518,000 for design/engineering and purchase of easements for the project. The total budget for the project is \$5,561,000.

In May 2015, HDR Engineering was retained as the engineering consultant to assist with the route study associated with the pipeline from the new well field to the new water treatment plant. The study involved evaluating three alternative alignments for construction of a pipeline to transmit raw water to the water treatment plant. The selected route allows the entire pipeline to be constructed on City property. As for the wells, two of the proposed locations are located on City property and one well will require land to be acquired. In addition to the permanent land acquisition for one well, temporary construction easements are needed for construction of the pipeline.

Staff invited all potentially affected property owners to an open house on March 1, 2016. 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 the staff. In addition, staff has met with each of the property owners where permanent easements are needed. Staff has also contacted residents in areas where permanent easements will not be required, but where there will be construction related disruptions.

On November 30, 2016, an appraisal was completed on the land that would need to be acquired for the well. The identified location is owned by the David A. Kepley Revocable Trust. The appraisal, performed by Commercial Appraisers of Iowa (an

appraiser retained by the City) valued the land at \$10,000/acre. The acquisition area is 2.81 acres, giving a total appraised value for the subject parcel of \$28,100. A review appraisal was completed on March 6, 2017 by a second, independent appraiser that confirmed the compensation estimate.

With the appraised value established, the City initiated negotiations with the property owner. A timeline of those negotiations follows.

- The City of Ames (thru its right of way agent, A&R Land Services, Inc.) extended a **first offer** to the Kepley Trust at the appraisal value of \$10,000/acre for the 2.81 acres for a total of \$28,100. On March 27, 2017, Mr. Kepley countered with \$25,000/acre for just the 2.81 acres or \$12,000/acre for the entire 50 acre parcel. The City rejected this as the project did not have sufficient funding (or the need) to purchase the entire 50 acre parcel.
- On April 14, 2017, the City made a **second offer** of \$11,000/acre for only the 2.81 acres for a total of \$30,910. This offer was rejected by the property owner, who indicated that they thought other sales would justify a higher price. After several months and multiple requests by the City, on November 19, 2017, the owner provided what they felt were comparable sales that would justify a higher market value. These sales were sent to the original appraiser for review. The appraiser determined that they were not in fact comparable sales, and they did not help to justify a higher price per acre.
- On January 7, 2018, the City made a **third offer** with notice that the City was prepared to move to eminent domain. The offer was for \$12,500/acre for a total of \$35,125 and a deadline of Jan. 26 was given for a response. That offer was not accepted.
- Mr. Kepley (the son acting on behalf of his father) indicated he thought his father would consider \$15,000/acre. City staff made one **final, fourth offer** on February 1, 2018 of \$15,000 per acre for the parcel. That offer was rejected by the property owner, who indicated he would only sell for \$18,000 per acre.

At that point, staff concluded that they had reached an impasse in the negotiations.

It should be noted that City staff have worked with the property owner to minimize the impact of the project on his property by shifting away from the ideal well location to a less productive portion of his field. Also, as a good faith effort, city staff contracted and paid to close a monitoring well that was no longer in use and had made farming on a separate field owned by the family cumbersome.

**It is key that Council consider the precedent that would be established by accepting the price offered by the property owner. The dollar amount in dispute in this case is not great because only a very small area of land is required. However, establishing a precedent of paying an exceptional percentage above the**

appraised value per acre could have lasting repercussions in the future, as this would become a new “comparable sale” price that could force the City into much higher per acre rates for any future land acquisition.

Provisions from Section 6B.2A of the Iowa Code have been followed for formal notification and negotiations with property owners. Although staff were hopeful the purchase of property/properties and easements required could be negotiated without condemnation, an agreement for a voluntary sale or easement for the third well site has not been reached, and condemnation appears necessary to move the project forward.

Staff anticipates being ready for bidding later this summer so it is important to continue the process of acquiring the land needed for the new well field. Condemnation of the parcel could take several months to complete, and staff neither complete the final design nor apply for the requisite construction permits until the location for the third well has been confirmed.

#### **ALTERNATIVES:**

1. Approve by resolution a declaration of the City Council’s intent to proceed with eminent domain, if necessary, to acquire the property for the construction of the North River Valley Well Field and Pipeline Project.
2. Direct staff to offer the property owner \$18,000 per acre to purchase the necessary land for the project.
3. Direct staff to delete the third well and associated pipeline with the current project. This would reduce the capacity of the new wellfield and increase the per gallon capital cost for the new wells.

#### **MANAGER’S RECOMMENDED ACTION:**

In order to preserve and increase source water capacity as existing wells continue to age and become less effective, new wells need to be constructed. Staff has made an honest good faith effort to negotiate with the property owner, but has reached an impasse in those negotiations.

**The use of eminent domain is a power that the City only uses as a last resort to ensure that its ability to provide essential services for the community is not compromised by unrealistic expectations or demands. The precedent of paying an exceptional premium for land has a very real likelihood of driving up land acquisition costs for any future projects by the City. Staff have gone as far as they can to try to reach a voluntary agreement, but have unfortunately reached an**

**impasse. The recommendation in this case comes only after a protracted period of good faith negotiations by City staff.**

All obligations required by the Code of Iowa have been fulfilled, preserving the use of eminent domain. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.

Attachments:

Site location map

Detailed acquisition map

# North River Valley Well Field Land Acquisition



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