

July 2, 2019 Special City Council Meeting

The special meeting of the City Council was held at 5:30 p.m. in the Council Chambers at City Hall.

PRESENT:

Mayor Eddie W. DeLoach, Presiding
Mayor Pro-Tem Carolyn H. Bell
Alderman Julian Miller, Chairman of Council
Alderman Brian Foster, Vice-Chairman of Council
Aldermen Bill Durrence, Van R. Johnson, II,
John Hall and Dr. Estella E. Shabazz

ABSENT:

Alderman Tony Thomas

ALSO PRESENT:

Acting City Manager Patrick C. Monahan
Assistant to the City Manager Bret Bell
City Attorney Bates Lovett
Deputy City Attorney Jen Herman
Assistant City Attorney Denise Cooper
Clerk of Council Mark Massey
Deputy Clerk of Council Margaret F. Fox
Real Estate Director David Keating

Date: Jul 02 2019 (5:30pm)

Special Meeting Agenda Items

- [1. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1302 Gwinnett Street.](#)
- [2. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1308 West Gwinnett Street.](#)
- [3. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1310 West Gwinnett Street.](#)

Mayor DeLoach called the meeting to order at 5:30 p.m., and he stated that the special meeting was being held to deal with three properties which the City is looking at acquiring portions thereof through the use of eminent domain for roadwork needed pertaining to the Arena project. He then recognized City Attorney Bates Lovett who indicated that Attorney Denise Cooper was going to handle the presentation.

Following a brief overview of the City's need to use eminent domain to acquire "portions" of three properties on West Gwinnett Street for a road project as listed on the agenda, Attorney Cooper made the following additional points:

- Real Estate Services will give a full overview of each project and a description of each individual parcel; and,**
- The purpose of the hearing is to give authority to staff to move forward with the process. There is no immediate action to be taken, and negotiation options are still remaining, but the City Council must give staff their authority first.**

Mr. David Keating, Director of Real Estate Services, provided a brief statement of the mission and purpose of his office. He also presented information regarding the Gwinnet Street Gateway Project which is vital to improve access and circulation to the new Arena and Canal District. In an effort to avoid traffic jams resulting in unhappy customers, improvements (streetscape project) must be made, and it is time sensitive to complete roadwork in time for the opening of the Arena. There are a total of nine different properties impacted by this project.

Federal and State laws are followed to acquire rights-of-way, and State-qualified appraisers are utilized. Staff meets with owners to review plans and plats, and to make offers based on appraised values. Owners are provided brochures stating their rights. Staff tries to negotiate a mutually agreeable deal, if titles are properly held.

Mr. Keating gave a description of each of the nine properties impacted by the rights-of-way projects/roadwork, as well as the current status of each.

Alderman Miller asked Mr. Keating why the timing is so important.

Mr. Keating explained with respect to timing, the right-of-way must be acquired, and construction must commence and be completed prior to the opening of the Arena.

Alderman Johnson asked if timing is of the essence, why aren't the other (six) properties being considered with those on today's agenda.

Mr. Keating indicated they have not reached the point on the other properties because they are in-progress and being negotiated, with the hope that staff will present them to City Council within two weeks. Two of the three projects being presented today have title issues and staff has reached a stalemate.

Alderman Johnson indicated there are no title issues with 1302.

Mr. Keating indicated staff has been negotiating for months with them, and staff has not gotten an acceptance, a rejection, nor a counter, thereby lacking substantive direction.

Mayor DeLoach opened the hearing on 1308 West Gwinnett Street property, and Mr. Keating provided an overview of the activities performed by staff.

Then Mr. Keating provided an overview of the 1310 West Gwinnett Street property and the activities performed by staff, pointing out that the resident needs assistance with clearing a title issue with this property.

Mayor DeLoach explained the general issues confronting the City with acquiring the properties necessitated by the Arena project.

Attorney Cooper clarified today's action is to give staff authority to move forward with eminent domain, condemnation action will still have to be filed with the Superior Court. Negotiation opportunities (dialogue) and probate will continue.

Alderman Miller indicated it is still confusing to him, and he requested an elaboration.

Attorney Cooper stated in simpler terms that:

- Staff works for Council and cannot move forward without authority from this Body to file Court action.**
- Due to the previous attempts at negotiation (at this stage), we are at an impasse and cannot move further without the Council saying yes, you (staff) can file this Court action.**
- With other properties, staff has not had to make similar requests because the negotiations have produced more progress.**
- Condemnation cannot be filed without the authority being given from the Council, whether staff files it today or on some future date.**
- Cloudy title issues warrant different steps along in the process, including to clear/continue Probate issues.**

Alderman Johnson indicated the only issue remaining is the 1302 property. He is concerned with taking the action today because of the lifetime/future effect and his feeling on this property. He indicated that he believes we can continue to work with them.

Attorney Cooper reminded the Council that Mr. Keating previously indicated that there has been contact and due diligence taken with respect to these properties.

Alderwoman Shabazz indicated there is a difference in the parcels, given that the property at 1302 serves people, and the business is a part of the family's

livelihood. 1302 should be given a little more time to negotiate further, 30 more days or so.

Alderman Hall inquired regarding how much property is being acquired from the Tannenbaum's.

Mr. Keating provided the right-of-way is 22,734 sq. ft. (half acre) and the slope easement is 1,177 sq. ft., requiring considerable more slope and elevation.

Mayor DeLoach requested the number of times that staff has contacted each of the owners and when the conversations started:

- 1302 (for Sheppard parcel with Mr. Sheppard or sister) – staff communicated 13 times in person, via phone or email**
- 1308 (for Ruby Brown with son Mr. Charles Brown) – spoke 7 times via person or phone**
- 1310 (Eckert Frasier) – 4 emails, 4 conversations, and certified letters**
- Conversations vary but began in February.**

Mayor DeLoach indicated two properties are vacant now and have been vacant for a long time. The 1302 property is not the same situation and we need to make sure we take care of them. Regardless, we have to make decisions and move forward with this project and these properties, and figure out how to make everyone whole. He hopes this body (City of Savannah) will vote and move forward in understanding what has to be done.

Alderman Johnson recommended we move forward with 1310 today, 1308 in two weeks, and 1302 in 30 days.

Mr. Monahan indicated we do have a “clock” on the table. Staff cannot release construction documents to start Gwinnett Street until the right-of-way issues are cleared up. Once cleared, we can start within the next two weeks. To at least start advertising, we have got to finish construction documents, we've got probably six weeks of advertising, maybe two weeks of valuation, then it comes back to Council, and then there is a notice to proceed. That's at least three months to just get started on construction. If construction does not get started soon on West Gwinnett, it will impact the Arena project. City Council has started agreements with an operator, an architect, a program manager, and a construction manager. Like the cultural arts center project, if we encounter delays it will require change orders due to the agreements we already have in place.

The Mayor opened the hearing for the 1310 West Gwinnett Street property.

- 1. Reverend Chester A. Ellis (1310 property), President of the Historic Carver Village Neighborhood Association, gave an accounting of what has happened to date, the substantive role the neighborhood association played**

in bringing all of the parties together, and he expressed that he wants this (transaction) to be a win-win situation. He requested the City Council to back-off and allow the Court process to proceed. There are other properties that are more substantive than the ones being considered today. He further indicated a delay will save money for the City. Don't push the little guys around. Putting eminent domain in place, limits their negotiation options. Don't cut their legs off, let them walk.

Mayor DeLoach asked which parties already had a court date set. Pointing out that there is no set date to get things done, except for a Court date that has been set for Mr. Charlie Brown's property (1308).

2. Mr. Charlie Brown (1308 property) requested the City to be fair to him, with respect to his property. He spoke regarding how he learned about this matter. He talked with staff, he hired an attorney and he contacted his brothers and sisters. Don't treat him differently with his property with respect to eminent domain, treat him like the City is treating the Tannenbaum's.

Mayor Pro-Tem Bell asked Mr. Brown what he wants the City to do.

Mr. Brown first requested sixty days, then he agreed to thirty days.

Mayor DeLoach told Mr. Brown the City will give him until August 1, 2019.

Mr. Monahan indicated the Tannenbaum property is different, it is in active negotiation right now and the City is countering them a second time. It should close within thirty days.

Alderman Miller indicated it is important that we not only be fair, but appear to be fair. We should work with August 1 on the 1308 property, but we also should move ahead with the 1310 property.

Reverend Ellis indicated if you talk with the attorneys representing the 1310 property, you may be in the same boat with them as you are with the 1308 property.

Mayor DeLoach restated by August 1st, we either have an agreement with the Courts based on a July 8 court date, or an agreement with the City.

Attorney Lovett requested clarification on moving forward with the authority to condemn portions of the property, no earlier than August 1, 2019. He further clarified the Mayor and Aldermen are going to vote today to authorize staff (us) to move forward with eminent domain proceedings against the 1308 property, no earlier than August 1, 2019. Attorney Lovett, Mr. Brown, and his attorneys will continue to negotiate between now and August 1st, if no agreement is reached before then we move forward with condemnation with the idea that we can still

negotiate after the eminent domain. This will allow the City to move forward.

Alderman Johnson requested to have separate hearings.

(Motion a.) Alderman Johnson moved to close the hearing on the 1308 property, Alderwoman Shabazz and Mayor Pro-Tem Bell seconded. Hearing no objections, the motion to close the hearing carried unanimously, 8-0-0.

1. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1308 West Gwinnett Street. **(APPROVED UNANIMOUSLY, AS AMENDED)**

(Motion b.) Alderman Durrence moved to approve the Resolution for the acquisition of the 1308 property, but agree to use eminent domain no sooner than August 1, Mayor Pro-Tem Bell seconded. Hearing no objections, the motion to approve carried unanimously, 8-0-0.

2. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1310 West Gwinnett Street. **(APPROVED UNANIMOUSLY, AS PRESENTED)**

(Motion c.) Alderman Durrence moved to approve the Resolution for the acquisition of the 1310 property, Alderman Miller seconded. Hearing no objections, the motion to approve carried unanimously, 8-0-0.

3. Motion to Approve Resolution to Authorize the Use of Eminent Domain to Acquire a Portion of 1302 West Gwinnett Street. **(CONTINUED/HELD FOR SIXTY DAYS)**

Mayor DeLoach reopened the hearing.

3. **Mr. Josey Sheppard (1302 property) indicated emotions have run high and they have served the community for many years. It hurt his heart to hear that they had been contacted more than twice within the last two weeks. The Sheppard's want to be a part of this development, but they will have to continue to take care of their family. Space is very tight and when construction begins traffic will have to be re-routed and it will have an impact on their business.**
4. **Ms. Deanna Baker (1302 property) indicated she has never heard the terms impasse, timelines and adequate notification used with regard to our property. Within the last two to three months, we have been introduced to Chip and Eric, and we exchanged correspondence with them. This is a vital business in Carver Village that operates in a very tight, limited area. We are addressing the concerns with Chip, but all concerns have not been addressed. So we are in active negotiations, and we are operating the timelines that we are aware of. Eminent domain is not the only option, and it**

is unfair to us and our negotiations. We have not reached an impasse.

Mayor Pro-Tem Bell asked, what would you and Josey like for us to do (best case scenario)?

Ms. Baker responded we wish to continue negotiations, until we can reach a favorable, agreeable and equitable agreement. 90 days.

Mr. Keating stated he believes Ms. Baker was referencing an option agreement which is usually good for 90 days, not 90 days to present an offer.

Mayor DeLoach stated we need to move forward with this job.

Mr. Sheppard asked if they can have 60 or 90 days.

- 5. Mr. Graylan Quarterman detailed his background with the Corps of Engineers as a real estate agent. Eminent domain and the C word is a nasty word and the last thing we would use. It is not a fast process. The Sheppard's have requested a master plan to see how they fit in this process. The first offer was an insult. They have provided information to Chip (staff) regarding these negotiations. 30 days is not enough. They are requesting 90 days to do some research and review the master plan to see how they fit, as well as to use staff's expertise.**

Mayor DeLoach indicated the City is looking to use a sliver of that property and it will be at least six months, maybe four months, before construction is going to start, including the drawings, bids, right-of-ways, etc., needed for this overall project. City property is currently being used for access to the Sheppard property.

Mr. Quarterman stated the City has had plenty of time and he requested the City to give the Sheppard's ample time to do their due diligence, without punishing them. They have to make sure it is the right price and that they consider the future use of the property.

Alderman Johnson inquired about the timing of the Tannenbaum property. If we are able to work this out internally, we will save time, rather than going through the eminent domain timing process.

Mr. Quarterman inquired about who makes the decisions for eminent domain, and whether the property will be sold. If the Sheppard's are put in Court for the eminent domain process, the City will get bogged-down.

Mayor DeLoach indicated there is a \$165 million project tied to making a decision on a sliver of this property.

Alderman Shabazz asked the Attorneys how long it takes for the eminent domain process to move through the Courts.

Attorney Lovett responded we would file a petition to take title to the properties. We would get that title to the property 7-10 days after filing the petition. It happens very quickly. The protracted litigation, involving eminent domain, becomes the value that the City pays to the owner. This process is what becomes the long-term fight. We will acquire title almost immediately, after filing the petition. After the taking, the question becomes what was just and adequate compensation for the taking.

Alderman Miller asked the difference of voting today, or four weeks from today.

Attorney Lovett indicated notice issues are among staffs concerns. Negotiations won't stop today. We are going to continue to do right by all of our citizens. We want to provide just and adequate compensation. He will continue to negotiate as long as he can.

Alderman Hall inquired regarding continued negotiations during and after construction, to include loss income.

Mayor Pro-Tem Bell agreed negotiations need to be ongoing.

Alderman Johnson indicated we have internal mechanisms like business development to help them to make decisions and remain viable.

Alderman Shabazz requested the City and the business to stay on a friendly course. If 90 days is too long, before the use of eminent domain, allow the business (family) to agree to 60 days. There were only three, and now two, African American owned businesses that sell gasoline. The City can use its resources to assist.

Mr. Quarterman indicated the Sheppard family is willing to negotiate. Let's meet halfway and agree to 60 days. Mr. Sheppard agreed.

Mr. Monahan requested the City Council to agree to a delay in action until September 30 3, 2019. He agreed to meet with the Sheppard's and their representatives on Monday morning in his office and they will get started. Bring all of the resources to the meeting, and the City will do so also including any master plans that may be available. This does not delay approval of the use of eminent domain, but it delays the filing of a petition.

(Motion d.) Alderman Durrence moved to close the hearing on the 1302 property, Alderman Johnson seconded. Hearing no objections, the motion to close the hearing passed unanimously.

Mr. Monahan indicated the City Council would adopt a Resolution to authorize staff to proceed with eminent domain for 1302 West Gwinnett Street, but not to be filed until September 30 3, 2019 or later. Meanwhile staff will continue to negotiate in good faith with the Sheppard's to reach an amicable agreement even after condemnation has been filed.

Alderman Miller stated what the Sheppard's asked for is not what we offered. There is a lot of vacant land out there that is not being used. Let's delay this decision 30 days, without any motion to see if we can come to some terms here.

(Motion e.) Alderman Johnson then stated so moved (delay decision for 30 days) with respect to the 1302 property, Alderwoman Shabazz seconded. (Alderman Johnson withdrew his motion)

(Motion f.) Alderman Johnson moved to delay making a decision on this matter for 60 days with respect to the 1302 property, Alderwoman Shabazz seconded. (No vote was taken on the motion. Since Attorney Lovett advised Alderman Johnson his motion was not an option, Alderman Johnson withdrew his motion.)

Attorney Lovett stated we do not need a motion to continue to resolve negotiations amicably. If there is a vote, it should be to vote on authorizing the use of eminent domain for the 1302 property, either up or down.

Mr. Quarterman indicated a vote on the use of eminent domain does make a difference for them.

Mr. Sheppard requested Council agree to allow them (The Sheppard's) 45 days.

Mayor DeLoach stated that there will be an agreement by the August 29, 2019 City Council meeting, prior to initiating condemnation proceedings.

Hearing no further business, Mayor DeLoach adjourned the meeting at 7:18 p.m.

The video recording of the Council meeting can be found by copying and pasting the below link in your url:

<https://savannahgovtv.viebit.com/player.php?hash=nq2a5pLb3Xcu>

Mark Massey, Clerk of Council

Date Minutes Approved: _____

Initials: _____