

SUPPLEMENTAL

COUNCL AGENDA: 12-18-07
ITEM: 5.2



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 12-11-07

Approved

Date 12/18/07

COUNCIL DISTRICT: 6

SUBJECT: FINDING AND DETERMINING THE PUBLIC INTEREST AND NECESSITY FOR CONDEMNING REAL PROPERTY OWNED BY CLEAR CHANNEL OUTDOOR FOR PURPOSES OF CONSTRUCTION OF THE DISTRICT 6 MULTI-SERVICE COMMUNITY CENTER AND WEST SIDE BRANCH LIBRARY PROJECT AND AUTHORIZING THE ACQUISITION OF THIS INTEREST BY EMINENT DOMAIN

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMORANDUM

This supplemental memorandum is provided to update the Council on a new billboard removal proposal received from Clear Channel Outdoor ("CCO") after the submission of the original Council memo, and to clarify the impacts of alternatives to the recommended action.

BACKGROUND

Subsequent to the placement of this item on the December 4, 2007 City Council agenda, CCO submitted a new proposal to the City's Real Estate Division that includes removal of the billboard from the Bascom Community Center and Branch Library project site and appears to better address the spirit of the Council's policy regarding billboards. Consideration of this proposal would occur with the formal submission, by CCO, of a Planned Development Rezoning application for relocation of the billboard.

Staff's recommendation that Council adopt a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor located at 1000 South Bascom Avenue and authorize the City Attorney to file suit in eminent domain to acquire such property interest for the Bascom Community Center and Branch Library Project was made after consideration of the impacts of a number of other options including: 1) Redesigning the

Project; 2) Delaying the Project; and 3) Negotiating with CCO for Removal of the Billboard. A brief discussion of the issues and impacts associated with these options follows:

1) Redesigning the Project to allow the billboard to remain on the property.

Benefits: Condemnation and acquisition of the billboard through eminent domain would not be required.

Costs: Multiple design configurations were considered, but the current design was preferred by City staff and the community through a process of nine community meetings. The current design, which places a two-story building on the north boundary of the site where the billboard is located, provides a southern exposure (producing LEED points toward silver certification) and maximizes on-site parking by taking advantage of an access easement on the south end of a relatively small site. A redesign to keep the billboard would sacrifice these ongoing benefits and would result in an estimated \$4.9 million in additional costs (\$1.6 million in additional design fees, a \$2.6 million cost escalation due to a 13-month delay in beginning construction, and \$700,000 in additional management costs).

2) Delaying the Project until the billboard contract expires on August 1, 2010.

Benefits: Condemnation and acquisition of the billboard through eminent domain might not be required, however, staff anticipates that the billboard company would likely challenge any attempts to terminate their lease, even upon its scheduled expiration date. For this reason, there is little benefit to this option since the necessity to utilize eminent domain would likely remain.

Costs: Assuming construction could begin immediately after the August 2010 lease expiration date, the minimum delay would be 27 months. Based on current projections of 10% annual cost escalation, the bids for construction would be increased by \$5,400,000. This is an average increase of \$200,000 per month.

3) Negotiating with Clear Channel Outdoor for Removal of the Billboard.

Benefits: Condemnation and acquisition of the billboard through eminent domain would not be required if an alternative agreement involving removal of the billboard could be reached. An agreement to remove the billboard before the project is bid could avoid the additional costs described in options 1 and 2.

Costs: If an agreement is not reached by the end of February 2008, the cost impact would be \$200,000 per month plus any costs included in the agreement. If the negotiations are not successful, the City would bear the delay costs of the negotiation period and eminent domain process if subsequently authorized by Council. Any agreement reached would be required to meet the requirements of the City's Sign Code.

ANALYSIS

The current Bascom Library and Community Center project schedule calls for the City to solicit bids in February with a due date of March 20, 2008 and construction starting in May. As in any eminent domain case, the timeframe for the City to secure possession of the property is uncertain and depends in great part on the cooperation of the property owner. Although in this case, the

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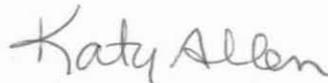
City may be able to secure possession quite rapidly, recently enacted state rules on securing possession could possibly extend this period by several months. Should Council approve the recommended action on December 18 and no removal agreement with CCO is forthcoming, the City would obtain possession of the billboard around the end of May with minimal impact on the project schedule.

On Friday, December 7, 2007, the City's Real Estate Division received a revised proposal from Clear Channel Outdoor that proposes to allow the replacement of a single-faced billboard on Hwy 880 north of Gish Road with a new dual-faced billboard structure in return for removing the dual-faced billboard on the Bascom project site and three faces on two other billboard structures in the City. In essence, this proposal would remove five billboard faces for the addition of one billboard face on southbound Hwy 880 and resolve potential schedule and cost impacts to the Bascom Library and Community Center Project. Planning staff will be reviewing this proposal in the coming weeks for compliance with Council policy and the City's Sign Code. Approval of this proposal would occur through a PD Rezoning application and a public review process before the Planning Commission and Council pursuant to Council Policy 6-30.

Staff is recommending that Council adopt a resolution determining that public interest and necessity require the acquisition of the billboard at 1000 South Bascom Avenue and authorize the City Attorney to file suit in eminent domain to acquire the property interest to ensure that costly project delays are not incurred if a final relocation agreement removing the billboard is not approved prior to the award of the construction contract. The recommended actions do not preclude the continued consideration and negotiation of the new proposal submitted last week by Clear Channel Outdoor and actually provide an incentive toward a timely, positive conclusion. If an agreement that removes the billboard is approved, the City's pursuit of acquisition through the eminent domain process would end immediately.

COORDINATION

This supplemental memorandum has been coordinated with the Office of the City Attorney, Planning, Building and Code Enforcement Department, and the City Manager's Office.



KATY ALLEN

Director, Public Works Department

For questions please contact PHIL PRINCE, DEPUTY DIRECTOR, at (408) 535-8300.

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