

Agenda Report

TO: CITY COUNCIL

March 24, 2003

FROM: City Manager

SUBJECT: Condemnation of Right-of-Way For Public
Alley, Gladys Court East Side Storm Drain

RECOMMENDATION:

It is recommended that the City Council set a public hearing date of June 2, 2003, to consider the adoption of a resolution authorizing the condemnation of the property known as "Lot A" of Tract No. 265 as per Map recorded in Book 14, Page 32 of maps in the Office of the Recorder of Los Angeles County (location map attached).

EXECUTIVE SUMMARY:

The Capital Improvement Project for the East Side Storm Drain was approved by the City Council in June 1990 when citizens' complaints about law enforcement and maintenance concerns were raised. Under this phase of the project (Phase IIG), the existing drainage channel will be covered between Belvidere Street and Mountain Street, and a public alley will be created to improve access to the side or rear of five adjacent lots along the west side of the channel. Prior to constructing said public alley, the City must secure fee title to "Lot A" of Tract No. 265. Information maintained by the Los Angeles County Recorder indicates that the record title to "Lot A" is vested with the heirs or devisees of the subdividers of Tract No. 265. In an effort to ascertain ownership of "Lot A," the City published a Public Notice continuously in the Pasadena Star News from September 2, 2002 through September 13, 2002, and provided for a 45-day claim period. Since the City did not receive any responses within the specified time frame, or thereafter; it is recommended that eminent domain proceedings be authorized at this time to obtain the subject property for use as a public alley.

BACKGROUND:

The East Side Storm Drain is a City-owned and maintained concrete drainage channel, constructed circa 1910 to 1915, which begins at Woodbury Road at the northerly city boundary and runs southeasterly through various residential and commercial properties

to Sierra Bonita Avenue (just north of Colorado Boulevard). The drain continues south of Colorado Boulevard, but is under the jurisdiction of the Los Angeles Department of Public Works (LACDPW), where it is known as the Rubio Wash. The City's portion of the above drain is approximately 2.9 miles in length.

Although originally constructed as an open channel by the City, over the years many of the owners of the lots traversed by the East Side Storm Drain constructed concrete decks over the channel walls. In 1990, a survey of the East Side Storm Drain prompted by citizens' complaints about law enforcement and maintenance concerns revealed that the length of the remaining open sections were approximately 1 mile, or one-third of the overall length of the channel.

In order to address the above problems a Capital Improvement Project for the East Side Storm Drain was approved by the City Council in June 1990. Phase I of the construction focused on repairing the existing overhead slabs and walls along the full length of the channel to restore their structural integrity and inhibit future deterioration. The work consisted of the removal of defective concrete and the repair of spalled concrete slabs, beams, and gravity walls; the removal and replacement of deteriorated reinforcing steel; and the repair cleaning, and painting of steel crane rails and beams. Phase II of the construction focuses on covering the remaining open sections of the channel.

The proposed storm drain project is located within the block bounded by Belvidere Street, Mountain Street, El Molino Avenue, and Palm Terrace. The existing East Side Storm Drain between Mountain Street and Belvidere Street is a 10 to 11-foot wide concrete open channel, approximately 925 feet in length, within a 25-foot wide City drainage easement that runs behind and along the properties on this block. The proposed improvements will include the construction of a concrete deck over the City-owned drainage channel, the placement of imported fill for minor grading, the construction of a concrete alley, and the installation of fencing and landscaping.

In May 1997, City staff arranged a public meeting to discuss the various options for developing the 233-foot long portion of the 25-foot wide strip of property immediately south of Belvidere Street in connection with the plan to cover the open channel. The meeting was attended by eight of the ten directly affected lots. At the meeting City staff presented four development options:

- (1) 25-foot wide public alley
- (2) 25-foot wide private driveway
- (3) 12-foot and 25-foot wide private driveway, with the balance of property consolidated with the abutting westerly lots

- (4) 12.5-foot wide private driveway, with the balance of the property consolidated with the abutting easterly lots.

Following a discussion of the advantages and disadvantages of the various options and a question and answer period, all of the owners were polled as to their preference for which option to select. By the end of the meeting a consensus of opinion was reached in favor of Option No. 1, the 25-foot wide public alley. The construction of a public alley will improve access to the side or rear of the five lots along the west side of the channel within this section. While all five lots will benefit from the alley, two of the properties have no other means of vehicular access.

The environmental phase of the project started in May 1997 and was completed in July 1998. A Negative Declaration for the project was prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), and was adopted by the City Council in July 1998 under Resolution No. 7640. The resolution approved the creation of the proposed public alley, declared the 25-foot wide right-of-way between the terminus of the proposed public alley and Mountain Street to be surplus real property exempt from the competitive sale requirements of the Pasadena Municipal Code, and authorized the staff to carry out the various right-of-way work required to complete the project.

In September 1998, City Engineering staff began work with an independent appraisal consultant to establish the nominal value of the surplus parcels. In May 1999, the City contacted all affected property owners to inquire about their interest in purchasing the surplus parcels abutting their properties. In order to carry out the subject project it was necessary for the City to account for the future ownership of the entire 25-foot wide right-of-way between Mountain Street and Belvidere Street. The responses were required so that the City could establish the final configuration for the subdivision of property. In February 2000, the process of preparing surplus property sale agreements, including exhibits and related Memoranda of Sale, was started. The execution of some of the agreements was delayed due to revisions that were requested by certain property owners.

In August 2001, Surplus Property Sale Agreements were executed between the City and the property owners for all 21 parcels that comprise the final configuration. In these agreements the property owners agreed to purchase portions of the City's surplus property consisting of a 25-foot wide strip of land that runs adjacent to these properties between Mountain Street and a point approximately 233 feet south of Belvidere Street between Palm Terrace and El Molino Avenue, and to allow the City and its duly authorized contractor any right of entry which may be necessary for construction purposes. Such transfer shall include a reservation of permanent easement for the operation and maintenance of the covered drainage channel.

With the execution of said Surplus Property Sale Agreements the future property ownership has been accomplished, exclusive of "Lot A" of Tract No. 265 as per Map

recorded in Book 14, Page 32 of maps in the Office of the Recorder of Los Angeles County. Since the present ownership of "Lot A" is not known, additional research was required. Information maintained by the Los Angeles County Recorder indicates that the record title to "Lot A" is vested with the heirs or devisees of the subdividers of Tract No. 265. In an effort to ascertain ownership of "Lot A," the City published a Public Notice continuously in the Pasadena Star News from September 2, 2002 through September 13, 2002, and provided for a 45-day claim period. The City did not receive any responses within the specified time frame, or thereafter.

Since the City received no claims indicating that anyone has an interest, or believed that they may have an interest in "Lot A" of Tract No. 265, the City could not make a direct offer to purchase said property. Therefore, it is recommended that eminent domain proceedings be authorized at this time to obtain the subject property for use as a public alley. The Public Works Engineering section will begin preparing preliminary plans, specifications, and estimates for the East Side Storm Drain project between Belvidere Street and Mountain Street, concurrently with the eminent domain process.

After the date of the hearing has been set, public notice of the hearing will be provided for forty-five (45) days. Anyone who wishes to appear and to be heard at the hearing, will be required to file a written request to do so within fifteen (15) days of the date the notice is provided. The hearing will not, by law, be concerned with the fair market value of the property. Testimony will be limited to, and findings will be made on the following three topics:

- (1) Whether the public interest and necessity require the project.
- (2) Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (3) Whether the property sought to be acquired is necessary for the project.

Following the public hearing, staff will recommend that Council adopt a Resolution of Necessity by at least a five-sevenths vote (Section 1245.240 of the Code of Civil Procedure requires a two-thirds vote) that will:

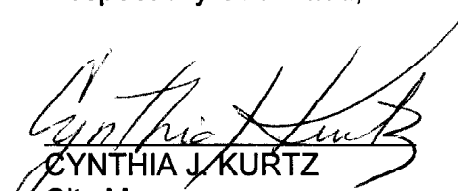
- (1) Establish the necessity for the acquisition of said property for the purpose of creating a public alley, Gladys Court.
 - (2) Direct the City Attorney to commence eminent domain proceedings for said property, and to take such action as needed to secure fee title to said property for the City.
 - (3) Direct the City Attorney to commence proceedings for taking immediate possession and use of said property and to take action as needed to secure for the City said possession and use.
-

The City has retained the law offices of Gutierrez, Preciado & House, LLP to file the eminent domain action following the adoption of the Resolution of Necessity.

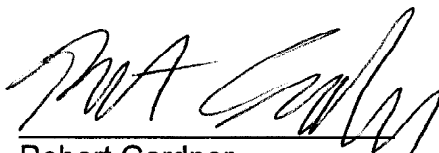
FISCAL IMPACT:

Sufficient funding is available for the acquisition of the subject parcel in Budget Account No. 76325, East Side Storm Drain Improvements, Belvidere Street to Mountain Street.

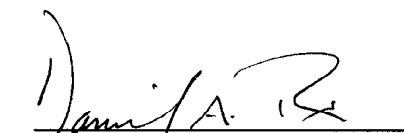
Respectfully Submitted,


CYNTHIA J. KURTZ
City Manager

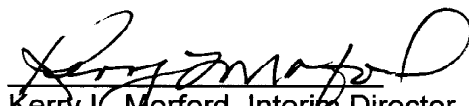
Prepared by:


Robert Gardner
Principal Engineer

Reviewed by:


Daniel A. Rix
City Engineer

Approved by:


Kerry L. Morford, Interim Director
Department of Public Works