
M E M O R A N D U M

DATE: September 19, 2006
TO: City Council Members
FROM: Russell Weeks
RE: Eminent Domain Proceedings relating to the Westside Railroad Re-alignment and Public Way Improvements - (500 North to 200 South and 500 West to 1000 West) – Project No. 109009
CC: Cindy Gust-Jenson, Rocky Fluhart, Sam Guevara, Louis Zunguze, DJ Baxter, Ed Rutan, Larry Spendlove, Matthew Williams, John Spencer, Gary Mumford

This memorandum pertains to City Council consideration of motions in connection with eminent domain proceedings relating to the Westside Railroad Re-alignment and Public Way improvements, Project No. 109009. The project involves improvements in an area bordered roughly by 500 North, 200 South, 500 West and 1000 West streets.

The City Council has scheduled a briefing and a public hearing on September 21 to consider resolutions to exercise the City's power of eminent domain on properties within the borders listed in the preceding paragraph.

As the Administration's memorandum dated August 28 indicates, Project No. 109009 is more commonly known as the project to reconfigure rail lines in the Grant Tower area. Reconfiguring the lines would accomplish several things. It would allow Union Pacific railroad trains to travel at higher rates of speed through Salt Lake City, eliminating a bottleneck in the railroad's system. It would allow for the extension of railroad quiet zones within the City. It would enable Union Pacific to cease freight traffic along the Folsom Street corridor, and convey to Salt Lake City all associated real property to provide a corridor along which to restore City Creek to the surface – a goal of the Salt Lake Chamber's Downtown Rising initiative. It would remove freight train traffic from a line that runs parallel to 900 South Street. According to the Administration, Union Pacific would convey all real property associated with the 900 South rail line to Salt Lake City for use as linear park, pursuant to the *West Salt Lake Master Plan*.

The City Council is scheduled to consider five resolutions relating to Project No. 109009. It should be noted that the City Attorney's Office has advised that the City Council consider each resolution separately.

Options

As with all items scheduled for formal City Council consideration, the Council has the options of adopting a motion or not adopting a motion. In this specific instance, it is unlikely that any of the five resolutions would be amended. It should be noted that the titles of the potential motions use Roman numerals merely to identify them. If each resolution is adopted, it will be numbered by the City in the City's standard manner.

Potential Motions

Resolution I

I move that City Council adopt a resolution initiating eminent domain proceedings on a parcel of real estate located in Salt Lake County and identified as parcel number 08-35-458-023 owned by R&R Center LLC at approximately 3 North 800 West Street in Salt Lake City.

I move that the City Council consider the next item on the agenda.

Resolution II

I move that City Council adopt a resolution initiating eminent domain proceedings on a parcel of real estate located in Salt Lake County and identified as parcel number 15-02-228-001 owned by Terry Nish at approximately 761 West South Temple Street in Salt Lake City.

I move that the City Council consider the next item on the agenda.

Resolution III

I move that City Council adopt a resolution initiating eminent domain proceedings on a parcel of real estate located in Salt Lake County and identified as parcel number 15-02-227-003 owned by Grand Staircase Inc. at approximately 767 West South Temple Street in Salt Lake City.

I move that the City Council consider the next item on the agenda.

Resolution IV

I move that City Council adopt a resolution initiating eminent domain proceedings on parcels of real estate located in Salt Lake County and identified as parcels numbered 15-02-227-001 and 15-02-227-002 owned by Jason Broschinsky at approximately 779/799 West South Temple and 777 West South Temple streets, respectively, in Salt Lake City.

I move that the City Council consider the next item on the agenda.

Resolution V

I move that City Council adopt a resolution initiating eminent domain proceedings on a parcels of real estate located in Salt Lake County and identified as parcels numbered 15-02-228-003, 15-02-228-004, 15-02-228-005 owned by Knox Investment LTD at approximately 741 West South Temple, 741 West South Temple, and 721 West South Temple Streets in Salt Lake City.

I move that the City Council consider the next item on the agenda.



ROSS C. "ROCKY" ANDERSON
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR

MEMORANDUM

TO: Rocky Fluhart 

From: D.J. Baxter, Senior Advisor to the Mayor 

Date: August 28, 2006

Re: Potential Use of Eminent Domain for Grant Tower Property Acquisition

Summary:

The Grant Tower rail reconfiguration project is moving forward quickly. The Council has provided a budget and has appropriated funds for acquisition of property needed for the Grant Tower project. While we have worked, and will continue to work toward the acquisition of property on a willing-seller basis, there are several critical parcels whose timely acquisition may require use of the City's Eminent Domain authority. This memorandum provides background information and accompanying materials to support a briefing to the City Council in Executive Session. I have requested that this session be scheduled for the September 5, 2006 Council meeting. At that meeting I would also like to ask the Council to set a date of September 21 for a public hearing on the proposed eminent domain actions, and to consider adoption of six resolutions (one for each property owner) authorizing the Administration to commence eminent domain proceedings on those parcels.

It is important to note that the initiation of the eminent domain process does not bind the City to actually condemning any of the subject properties. It merely allows us to start the process of providing official notifications to the property owners, and filing papers with the court. We will continue attempting to reach a negotiated purchase price with the property owners, and if we do reach such agreement, we can halt the eminent domain process on that parcel easily and immediately.

The following materials are provided with this memorandum:

1. Memo from City Attorney's Office describing the eminent domain process.
2. Copies of the proposed resolutions for each parcel or set of parcels.
3. Maps showing the location and boundaries of the affected parcels
4. Table showing the ownership, address, and status of each parcel regarding appraised values and amounts offered.

Background:

While we are making some progress with the acquisition of properties for the Grant Tower project, we soon need to initiate the process for acquiring the properties by eminent domain to obtain possession of some of the critical parcels in time for construction. Our Property Management Division has been working with land owners for many months now, and we have secured appraisals and made offers on all of the relevant properties. As might be expected, however, some property owners disagree with our appraisals, and in a few cases, have requested a second appraisal. We are working with the State Property Rights Ombudsman's Office to facilitate this process (under which the City must also pay for the second appraisal), and we will make every effort to acquire properties on a "willing seller" basis.

Nevertheless, the construction schedule calls for a very carefully-timed sequence of construction phases, beginning as early as December. Because that time is rapidly approaching, and because we have not yet been able to reach an agreement with the owners of several critical parcels, we have no choice but to begin the process of condemning those properties. The eminent domain process contains several timing and notice requirements which necessitate that we initiate this process now to ensure we can occupy the needed properties in time for construction to begin.

We have every intention of being fair with all of the property owners, and we will continue to attempt a negotiated purchase of their properties. Our hands are somewhat tied, however, by the appraisals we have received, all of which calculate a value significantly lower than property owners are currently willing to accept.

If we succeed in reaching an agreement with owners for the purchase of their properties, we can always back away from the eminent domain process. For those businesses that will need to be relocated, we are going beyond what is required, and doing what we can to help owners find parcels to which to relocate their businesses. In fact, one of the parcels we may need to condemn is actually for the purpose of relocating two of the businesses. In this case, the property is currently for sale, and we have made two nearly full-price offers on the property, only to have our offers rejected and the asking price increased.

Another of the parcels we would like to use for the relocation of a business is currently owned by the Salt Lake City Redevelopment Agency. We are working with RDA staff to determine how much of the parcel will be needed for the planned extension of Eccles Avenue to 600 West, and how much will remain and could be used as a relocation site for Mr. Young's studio.

In total, we are considering condemnation of up to seven parcels or groups of parcels. We have sent notices to 6 property owners: 5 to property owners whose businesses need to be relocated because their entire parcels are needed for the project, and one to the owners of the parcel that will provide a new home for two of the

businesses. The seventh property owner is Rocky Mountain Power. Because of ongoing negotiations with Rocky Mountain Power, we have not yet sent a notice on their parcel, but we believe we may need to initiate the eminent domain process at a later date if negotiations do not produce results soon.

Although there are approximately 30 parcels that will be affected by this project, in the majority of cases, we only need a small portion of the parcel. Right now, we do not foresee any major difficulties in acquiring these portions.

Conclusion:

While we still hope to avoid using eminent domain entirely, we must initiate the process now, or risk not being able to acquire the required parcels in time for construction. It is possible that the mere threat of condemnation will help us resolve some of the disputes over property value and lead to agreements on an appropriate purchase prices for some or all of the needed parcels. We have made it clear to the property owners that we are interested in continuing to negotiate a fair purchase price, and will make every effort to secure the properties on a willing seller basis.

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

A RESOLUTION INITIATING EMINENT DOMAIN PROCEEDINGS

Whereas, the City of Salt Lake City, Utah, a municipal corporation and political subdivision of the State of Utah, is authorized to acquire private property for public use through the exercise of eminent domain; and

Whereas, the City of Salt Lake City desires to facilitate and enable the removal and realignment of freight railroad tracks from the 900 South rail line and from the Folsom Street Rail Corridor to improve the safety and efficiency of the rail lines, decrease noise, vibration, pollution and interference with residential neighborhoods, improve traffic circulation, enable the creation of public spaces, assist in relocating existing businesses, and otherwise provide for the health, safety and welfare (the "Public Use and Purposes"); and

Whereas, the City has determined that certain parcels of land and associated structures must be acquired and cleared to accommodate the Public Use and Purposes; and

Whereas, the City has extended an offer to the property owner to purchase the property which is the subject of this resolution for its market value; and

Whereas, the City desires to acquire the property described below through the exercise of its power of eminent domain for the Public Use and Purposes including without limitation, facilitating the freight track relocation away from the residential area along 900 South Street, thereby enabling the abandoning of existing tracks on 900 South in order to eliminate noise and other health, safety and welfare concerns of that neighborhood; ensure more rapid and smooth movement of freight trains through the City; improve traffic safety and circulation, assist in relocating existing businesses, and reduce automobile pollution; and for other public purposes;

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest and necessity require the acquisition and the immediate occupancy of the parcel of real estate located in Salt Lake County and identified as parcel number 08-35-458-023, for the Public Use and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by: R & R Center, LLC. The affected property is located at approximately 3 North 800 West in Salt Lake City, Salt Lake County, Utah.

Section 3. The proposed location of the realigned tracks is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

Section 4. The Mayor and the City Attorney are directed, on behalf of the City:

1. To acquire, in the name of the City, fee interest in the properties as set forth herein, by purchase if a reasonable purchase price can be negotiated, or by eminent domain proceedings in accordance with Utah law.
2. To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as is necessary for such acquisition.
3. To obtain from the court an order permitting the City to take immediate possession and use of said real property and easements affecting said real property, for the purposes herein described.
4. To use the services of outside counsel as necessary to accomplish these directives.

Section 5. This resolution shall take effect immediately.

Adopted by the City Council of Salt Lake City, Utah this ____ day of September, 2006.

SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorneys Office
Date: 8/24/2006
By: [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

A RESOLUTION INITIATING EMINENT DOMAIN PROCEEDINGS

Whereas, the City of Salt Lake City, Utah, a municipal corporation and political subdivision of the State of Utah, is authorized to acquire private property for public use through the exercise of eminent domain; and

Whereas, the City of Salt Lake City desires to facilitate and enable the removal and realignment of freight railroad tracks from the 900 South rail line and from the Folsom Street Rail Corridor to improve the safety and efficiency of the rail lines, decrease noise, vibration, pollution and interference with residential neighborhoods, improve traffic circulation, enable the creation of public spaces, and otherwise provide for the health, safety and welfare (the "Public Use and Purposes"); and

Whereas, the City has determined that certain parcels of land and associated structures must be acquired and cleared to accommodate the Public Use and Purposes; and

Whereas, the City has obtained appraisals of these parcels and associated improvements, and has extended offers to the property owners to purchase the properties for its market value, as indicated by the appraisal; and

Whereas, the City desires to acquire the property described below through the exercise of its power of eminent domain for the Public Use and Purposes including without limitation, facilitating the freight track relocation away from the residential area along 900 South Street, thereby enabling the abandoning of existing tracks on 900 South in order to eliminate noise and other health, safety and welfare concerns of that neighborhood; ensuring more rapid and smooth movement of freight trains through the City; improve traffic safety and circulation, and reduce automobile pollution; and for other public purposes;

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest and necessity require the acquisition and the immediate occupancy of the parcel of real estate located in Salt Lake County, State of Utah and identified as parcel number 15-02-228-001, for the Public Use and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by: Terry Nish. The affected property is located at approximately 761 West South Temple in Salt Lake City, Salt Lake County, Utah.

Section 3. The proposed location of the realigned tracks is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

Section 4. The Mayor and the City Attorney are directed, on behalf of the City:

1. To acquire, in the name of the City, fee interest in the properties as set forth herein, by purchase if a reasonable purchase price can be negotiated, or by eminent domain proceedings in accordance with Utah law.
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3. To obtain from the court an order permitting the City to take immediate possession and use of said real property and easements affecting said real property, for the purposes herein described.
4. To use the services of outside counsel as necessary to accomplish these directives.

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SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorneys Office
Date 8/24/2006
By [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

A RESOLUTION INITIATING EMINENT DOMAIN PROCEEDINGS

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NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest and necessity require the acquisition and the immediate occupancy of the parcel of real estate located in Salt Lake County, State of Utah and identified as parcel number 15-02-227-003, for the Public Use and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by: Grand Staircase, Inc.. The affected property is located at approximately 767 West South Temple Street in Salt Lake City, Salt Lake County, Utah.

Section 3. The proposed location of the realigned tracks is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

Section 4. The Mayor and the City Attorney are directed, on behalf of the City:

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Adopted by the City Council of Salt Lake City, Utah this ____ day of September, 2006.

SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 8/30/2006
By [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

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NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest and necessity require the acquisition and the immediate occupancy of the parcels of real estate located in Salt Lake County, State of Utah and identified as parcels numbered 15-02-227-001 and 15-02-227-002, for the Public Use and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by: Jason Broschinsky. The affected property is located at approximately 779/799 West South Temple and 777 West South Temple Streets respectively in Salt Lake City, Salt Lake County, Utah.

Section 3. The proposed location of the realigned tracks is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

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SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorneys Office
Date 8/28/2006
By [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

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Section 2. The property to be affected by the action taken in Section 1, above, is owned by: Knox Investment, LTD. The affected property is located at approximately 741 West South Temple, 741 West South Temple, and 721 West South Temple Streets respectively in Salt Lake City, Salt Lake County, Utah.

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ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 8/28/2006
By [Signature]



