

Waterbury Select Board Meeting
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U.S. Route 2-Main Street Reconstruction FWWA A FEGC F 013-4 (13)
Condemnation Compensation Proceedings
August 28, 2017
6:30pm
Minutes

Attending: C. Viens, D. Schneider, M. Metayer, Select Board; B. Farr, W. Woodruff, Staff; C. Nordle, Esq. - attorney representing Waterbury Select Board; M. O'Grady, appraisal chief, J. Blanchard, K. Thompson, E. Pierce, all of Vermont Agency of Transportation; C. Lawrence, Town Clerk.

Property Owners/Visitors: J. Grace, C. Rich/C. Bonanni, A. Imhoff, ORCA-TV.

Public: E. Coffey, R. Boyle (arrived late).

C. Viens, Chair of the Select Board, called hearing to order at 6:30pm.

D. Schneider made a motion to approve the agenda, which was seconded by M. Metayer. The motion was approved unanimously.

C. Nordle explained that the Board previously determined that the project meets the necessity standards and that tonight's hearing is about to what extent, if any, compensation is due for easements. At a prior meeting, R. Boyle and A. Chorey requested additional time to present evidence. The Board allowed until the start of the meeting this evening. **M. Metayer made a motion that the Board close the testimony on parcel 112 (Boyle & Chorey) on the compensation hearings and the Board later enter into a deliberative session on that parcel. The motion was seconded by D. Schneider and passed unanimously.**

Also at the last meeting, the Grace's asked for a delay and they were told that the property would be considered this evening. The third item for the Board to consider was that Chad Rich asked for additional time on parcels 26 and 108. The Board agreed to take additional testimony through this evening. C. Rich has engaged an attorney and requested a continuance of 90 days. This request will be considered later in the meeting. Five parcels were on the agenda this evening, and settlement agreements were reached for parcels 18, 22 and 62. Up for consideration this evening is parcel 47 (J. Grace) and parcels 26 and 108 (C. Rich). The property owners were contacted and agreed to come in earlier than scheduled.

C. Nordle reminded the Board what the damage standards are, and proceeded to give a description of Parcel #47 owned by Jon and Jeff Grace.

C. Nordle "swore in" all who expected to provide testimony and all who swore so agreed to tell the truth for the full duration of the hearing concerning the properties under consideration in the evening's proceedings.

K. Thompson explained the process and methodology used by the Agency to determine compensation. He explained that the listed lot value on parcel #47 is \$111,000 with .43 acres, which equates to \$5.93 per square foot. The compensation amount offered includes utility rights for 381 square feet for a total of \$2, 146, rounded up to \$3,000 due to the invasiveness of the utility right. A terminating cabinet will be placed on the property. There is a temporary right to disconnect and reconnect water and sewer valued nominally at \$200. The right to install a walkway was given nominal value of \$100. A temporary utility easement valued at \$1,238 was rounded to \$1,300. There are two separate landscape rights valued at \$100 each. The offer on parcel #47 totaled \$4,800. The right to install a tree protection zone was eliminated as the tree is being removed.

The Board asked a couple of questions with regard to the terminating cabinet that will be placed on the property. J. Grace asked for clarification on the easement and access to the cabinet, and asked how the cabinet will be maintained.

J. Grace asked to submit his initial response to the \$4,800 offer. C. Nordle stated that this is typically not part of the proceeding, but he is allowed to verbally express his opinion of value. J. Grace stated that he and his brother own the 4 unit apartment building located on Park Row and purchased it in the fall of 2013. Major improvements have been done since then, including foundation work, insulation, a new parking lot, and utility upgrades. He believes the impacts from the project include perceived and real safety hazards, aesthetics of lost green space, reduction in developable area, increased maintenance costs to maintain shrubbery around the cabinet, and risk to existing water and sewer utilities. He feels he is taking on risk that is not fair, and that should be part of the compensation.

J. Grace asked to talk about comparable easements as part of the project. C. Nordle stated it is not admissible to present amounts of compensation paid to other properties, unless the Board does not have an issue. He cautioned the Board that they will lack context on what is being taken. The Board did not object to hearing about comparable easements. J. Grace went through several comparables, including 83 South Main Street at \$23,500; 58 South Main Street at \$47,000; and 60 South Main Street at \$55,000. He then went through project impacts on these three properties.

J. Grace proposed compensation of \$23,500 on his property, which he feels is fair, and asked the Board to look at what is actually happening to his property which is located on one of the main intersections in Waterbury. C. Nordle asked J. Grace if he feels the assessed land value of his property is accurate. J. Grace stated he does not feel that \$5.93 per square foot is a fair estimate, and that the area on the corner is not worth the same as the area landlocked next to a parking lot. He feels his takings are most similar to the Amasa Pride parcel at 83 South Main Street, even though their easement area is significantly larger.

C. Viens asked B. Woodruff about the placement of the underground utilities near the water and sewer utilities. B. Woodruff was then sworn in. C. Nordle reiterated J. Grace's concern that he would have to absorb potential costs to replace or repair old lines. B. Woodruff explained the responsibility of the Village and homeowner as to maintenance of lines and stated he would be nervous about placing communication lines over old clay pipe. B. Woodruff stated the lines would be placed within the highway right of way so the Village would be responsible for repairs to the water and sewer utilities. J. Grace stated he does not wish to rely on something that is not

in writing. J. Grace asked the Board to fully consider what is happening to his property. Exhibit 1 was entered into evidence.

There were no other comments or questions. **D. Schneider voted to close the evidentiary hearing for Parcel #47. The motion was seconded by M. Metayer and passed unanimously.**

C. Rich and C. Bonanni were present for the discussion of parcels #26 and #108. C. Nordle suggested that the Board enter into a deliberative session to determine whether or not to allow a continuance of 90 days. C. Bonanni stated that the Board does not have enough information to consider compensation, and expressed concerns about diminution of business and loss of outdoor seating. He stated there are questions about the appraisal approach of sales versus income.

At 7:40pm, D. Schneider made a motion to move into deliberative session on parcels #26 and #108. The motion was seconded by M. Metayer and passed unanimously. The Board exited deliberative session at 7:51pm. The Board reached a decision to close out the hearing pertaining to parcels #26 and #108, as C. Rich has had more than ample time. The Board encouraged him to work with the negotiator to agree on fair compensation.

C. Rich expressed concerns with the timeline of construction, comparables, and that no income valuation was done. He also expressed concerns with loss of outdoor seating and that the value of the property is far greater than what was offered. It was again suggested that C. Rich get in touch with the VTrans negotiator, and the Board will sign the decision on September 18th. It was mentioned that there are funds that the Transportation Liaison and Revitalizing Waterbury will utilize to assist property owners during construction.

M. Metayer made a motion to close taking testimony on parcels #26 and #108. The motion was seconded by D. Schneider and passed unanimously.

C. Nordle stated that R. Boyle came to the meeting a few minutes late and that he and A. Chorey submitted a letter for the Board to consider. C. Nordle suggested adding the letter as the third exhibit on Parcel #112. **D. Schneider made a motion to accept the letter as exhibit 3 for parcel #112. The motion was seconded by M. Metayer and passed unanimously.**

M. Metayer then moved to close the public portion of the hearing and to enter deliberative session to consider the evidence and testimony that had been presented. D. Schneider seconded the motion. It passed 3-0 and the Board entered deliberative session at 8:05pm.

The Board re-entered the public session at 8:30pm, and adjourned the hearing.

Respectfully submitted,

Carla Lawrence, Town Clerk

Approved on: September 5, 2017