

URBAN RENEWAL AUTHORITY BOARD

February 23, 2023

5:04 PM

- **ROLL CALL**

PRESENT: Draper, Arndt, Wise, Ohlson, Pignataro, and Canonico

ABSENT: Francis, Peel, Gutowsky (remote), Wise (remote), Stephens (remote), and Smith (remote- arrived at 5:09 pm)

- **AGENDA REVIEW**

Interim Executive Director Birks stated there were no changes the published agenda.

Two discussion items; minutes and a discussion about acquisition of certain properties on North College.

- **PUBLIC PARTICIPATION** - Public in attendance. Two online.

Chair Arndt outlined the public participation options.

- Fred Colby: Introduced himself as he will be replacing Joe Wise, and stated looking forward to working with the URA Board

- Patricia, Mi Voz: With the Family Center, hoping residents will join this meeting. There is another meeting happening right now. Spoke about the Albertsons' property. Stated she assists in helping facilitate meetings with residents that reside in North College Corridor. They would like a facility in place and a list of services including mental health, and childcare, to access to other resources from other organizations that provide services. Multi-purpose space, a community kitchen, and recreation services. Residents are motivated to have a space close to the mobile home park. Spoke about Aztlan Center and stated that residents do not feel welcome there. She is excited about the possibility of this proposed facility for the residents she advocates for.

- **COMMISSIONER REPORTS**

Andy Smith joined at 5:09 p.m.

- **DISCUSSION ITEMS**

1. **Consideration and Approval of the Minutes for January 26, 2023 Urban Renewal Authority Board Meeting. (Adopted)**

The purpose of this item is to approve the minutes of January 26, 2023, Urban Renewal Authority meeting.

Commissioner Pignataro made a motion, seconded by Commissioner Canonico, to approve the January 26, 2023, meeting minutes.

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| RESULT: | MINUTES ADOPTED (UNANIMOUS: 6-0) |
| MOVER: | Julie Pignataro |
| SECONDER: | Tricia Canonico |
| AYES: | Arndt, Wise, Ohlson, Pignataro, Canonico, and Draper |
| EXCUSED: | Francis, Peel, Gutowsky (remote-unable to vote), Wise (remote-unable to vote), Stephens (remote-unable to vote), Smith (remote-unable to vote) |

2. Resolution No. 124 Authorizing Negotiations for the Acquisition of Properties. (Adopted)

The purpose of this item is to provide approval to staff to make offers and negotiate to acquire the Albertsons' site and two adjoining buildings. At the Board's regular meeting in July 2022, the Board provided direction for staff to pursue three courses of action related to acquiring the former Albertsons' site at 1636 North College Avenue: 1. Begin discussions for acquiring the Albertsons' site and two adjoining buildings, 2. Discuss funding options with City staff and the City Council Finance Committee, and 3. Conduct a commercial real estate appraisal of the Albertsons' site and two adjoining buildings. In January, staff provided an update on progress related to all three action items. Based on January's meeting, staff seeks approval from the Board to make offers and negotiate to acquire the Albertsons' site and two adjoining buildings.

Clay Frickey, Redevelopment Program Manager, introduced legal counsel Rich Rodriguez.

Frickey gave a presentation. He stated this presentation is about the acquisition of property by the Board and provides an overview of what the property acquisition process will look like so the Board is more informed. As well, as seeking permission from the Board to go ahead and start negotiating with the property owners to try to acquire the properties.

Last month (January) in the executive session, discussed details about potentially acquiring the property in the North College corridor. Today is a follow-up to provide more details about what the process would be like.

Clay introduced Legal Counsel Angela Hygh and Rich Rodriguez to answer any additional questions.

Angela Hygh, introduced herself and gave her presentation.

She provided background stating the law sets forth the ability for the Board to acquire property for the purpose to prevent and eliminate blight. It authorizes the Board to acquire properties in a variety of different ways. Including by way of purchase. This will be discussed first by herself. Later Rich Rodriguez will discuss the process of eminent domain or condemnation.

Hygh provided background on acquiring property by way of purchase. She stated this process is similar to a process that is followed by any private entity the authority would extend an offer. This includes utilizing the typical offer, counteroffer, negotiating, letter of intent, and purchase and sale agreement process. This is a typical process that a private entity would use and a typical process that authority would follow.

Hygh explained that sometimes property owners ignore or resist offers to purchase. If that happens, the Board may initiate steps to notify the property owners that the property may be acquired without the owner's consent if a consensual sale cannot be accomplished.

Eminent Domain is a different process and Rich Rodriguez will discuss this in more detail later.

Hygh stated she wanted to frame this process first with a few issues to keep in mind. On the slides, we see "government" but it means the authority when the authority initiates those steps.

Again, by notifying the property owner, or by passing a resolution that allows or authorizes condemnation, that act itself is not an active condemnation.

She stated that is the first of a series of steps that, if taken to completion, could result in condemnation. She stated that Eminent domain is typically used as a last resort, usually in rare and exceptional circumstances where all reasonable efforts to acquire private property consensually have failed. The CRS (Statute) states the Urban Renewal Authority is required to pay the landowner fair market value for the property.

Hygh passed over the presentation to Rich Rodriquez.

Rich shared PowerPoint slides. He did an introduction and shared that eminent domain must be approved as part of an urban renewal plan. It has been around for a long time. He stated most governmental entities would not be able to build roads or provide schools if they didn't have this power. It is something in our Nation's history. Condemnation is the process of exercising the power of an eminent domain.

He stated that Colorado has a well-established procedure for condemnation that is very fair to both the Government and the property owner. The Statutes have been in place for decades, they provide an opportunity at each step of the process to make sure that the property owners are treated fairly and made whole.

He stated the process with an Urban Renewal Authority, shared that the authority can condemn property to eradicate blight, and that is the public purpose. He referred to the slide, that there are a series of steps that urban renewal authorities must complete in general before they can move down the path. Please refer to the bullet points:

- Eminent domain must be approved as part of an urban renewal plan (**completed in 2004**)
- The Authority must adopt relocation assistance and land acquisition policies to benefit displaced persons (**completed**)
- City Council must make a determination that the property is located in a blighted area, or the property itself is blighted (**completed 2004; would make confirming findings**)
- Later, at the commencement of the negotiation of an agreement for redevelopment or rehabilitation of the property, the Authority must provide notice and invite proposals for redevelopment or rehabilitation from all property owners, residents, and owners of business concerns located on the property.

He stated what's not on the slide is, there is actually another provision in the code that says you can even put it out to others in the urban renewal area as that is just a requirement.

He shared that when you are ready you can move into the next steps.

This a reminder of the informal step, where the board can acquire property on the open market, similar to if you were trying to sell your home or your business, which is the typical give and take process. Hopefully, the property can be acquired in that manner. Note: that happens quite frequently.

He stated again, eminent domain is historically used as a last resort. Refer to the slides for the Steps for Exercising Eminent Domain.

Therefore, the approach staff is recommending the board take is consistent with his experience.

He stated again, the Board reach out to the property owner and see if a deal can be completed consensually. If efforts for consensual acquisition fail, the Authority authorizes the acquisition of real property by eminent domain. If not, then the Board adopts a resolution authorizing further negotiations, authorizing sending out a Notice of Intent to Acquire the property.

A reminder these steps provide protection to the property owner. It is a statutory notice that's required to have certain things from the Board including:

- identifying who you are
- what property is that you need an interest in,
- or, if you need it in a fee
- and why you need it
- what you are planning to do with it,
 - in this situation, the Board would inform the property owner that they have the right to get their own appraisal, as long as they submit it in accordance with the proper eminent domain standards and they submit it within a certain period of time.
 - The Board would have an obligation to reimburse them.

Rich explained that the Board would make an offer to the property owner based on an appraisal. Sometimes the landowner gets an appraisal, and there is an opportunity to negotiate with the two appraisals and a deal can be reached.

He explained that in the event that the Board has a situation where no agreement is reached, the steps include: a series of offers, giving the property owner period of time to respond, and if a deal cannot be reached, then the Board is legally authorized at that point to move forward with eminent domain.

Rich explained the steps in Exercising Eminent Domain Generally (refer to the slides).

The Board would file an action in State District Court, and it would be filed in Larimer County.

- A petition would be filed, and in that proceeding, the government will want to obtain immediate possession or immediate title to move forward with this project and build it.
 - If so, a hearing with a judge is usually 30 to 90 days.
 - At the hearing, the government bears the burden to prove certain elements (see slides)
- If the authority satisfies its burden, it gets immediate title or possession pending a final determination as to the value
- A valuation trial is set usually 6 to 18 months after an immediate title or possession hearing.

Rich stated he recognizes this is a wide span, the reason is there are many things outside of your control. He stated each Judge sets their own particular docket. That is the process and now Rich is open to questions.

Commissioner Draper asked how long does this typically take, and what is the worst-case scenario? Draper clarified, from the start to today going through the entire process. Rich stated, typically anywhere from 18-24 months, it could be quicker, but it depends on the docket.

Chair Arndt asked: Do you have to have firm plans, how specific? Rich stated; Yes, a project needs to be consistent with your Board. Chair stated that has to be the project that moves forward, yes?

Rich stated he has not seen the Board's plan, and shared that whatever the Board described as the efforts to eliminate blight in this particular area under the plan. Stated as long as the Board is consistent with that plan that would be a sufficient project. Rich also stated that the plan can always be amended.

Clay shared a statement to remind the Board that they are there to talk about getting permission to negotiate a consensual sale. Clarified, we are not talking about eminent domain tonight. That is not what the resolution does today.

Today was to provide the Board an overview of what that process looks like to understand that they are setting themselves up for that process in the event that these negotiations do not go well. The last time the Board had received permission to do anything related to this process was back in July 2022. It was a very general direction from the Board. This included obtaining appraisals and begin discussions with property owners. It was to not negotiate anything with the property owners, and there was a third action that he cannot recall. The main point he stressed was that they did not receive permission from the Board to actually start negotiating a price with the property owners.

The follow-up from this meeting, should the Board choose to pass the resolution is to work with the legal counsel on what the form of that offer should look like. As well if they should start to talk dollars and cents, they may want to bring this back to the Finance Committee at some point for discussion as it will impact the URA finances.

Note: This will require a lot more additional discussion and an additional resolution to move forward with purchasing the site.

Clay stated there is an action that Rich could answer.

Resolution Overview

- Resolution authorizes continued negotiations to acquire property.
- If negotiations are unsuccessful, Board can consider using eminent domain.
 - Will require additional resolution and discussion

Staff recommends the adoption of the resolution.

Clay started to answer Chairs' question: Urban renewal plans, like the South and North College, were written quite broadly to allow them to undertake a lot of different actions that can remediate blight. From the staff's perspective, if they were to take and acquire this site and put active uses in there, and make improvements to the site, it would be remediating the blight in a way that would be consistent with the Urban Renewal Plan. If the Board really wanted to amend the plan, he shared they probably could do that. But the plan as written would give them enough direction to move forward with this.

- **PUBLIC PARTICIPATION** - Public in attendance. One person.

Interim Executive Director Birks stated the Board is taking comments at this time.

- Jan Stallones: She is a resident of the North College corridor. She shared she has multiple interests including the status of the Albertsons' property and its trend toward blight. Second, are the needs of the underserved populations and the needs of the unsheltered populations that are in the corridor. She stated she is very concerned about those needs being met. Finally, she is concerned about the integrity of the neighborhoods in this area and the health and viability of the really great businesses that are in this area. The concern is she understood that there was a 30-year lease on the property, and she wonders if they end up acquiring this property in either of these methods if that lease would maintain, and that property might just still stay empty.

Rich answered the question for public comment. One of the rights the Government has if it needs to condemn. It is defining what it is promoting, and what its project is. Basically, the decision is up to the Board. Some Urban Renewal Authorities will take the property subject to existing encumbrances and leases because that works for them.

If this Board decides that a long-term lease is not consistent with eradicating blight on this property, it would just condemn that lease out, if they felt that was appropriate.

Vice Chair Wise stated that this is not a new Urban Renewal Plan. This is several years old and has been in place for a long time. Stated this is a project within the plan. He stated what we are really considering is this the best use of those funds which the Board will receive. He also stated that the Board has had extensive engagement over several years with several groups from the North College area who would be impacted by this. There was a lot of feedback gathered.

Commissioner Stephens thanked Patricia for speaking earlier. Stated that there was a lot of outreach. Stated she was sad about the disappointment with Aztlán Center. She shared her feels that this proposed project will be more in tune with what the residents will be looking for. She stated she supports this moving forward and appreciates the outreach that Clay has done and there is a lot of trust in the City government.

The final statement from Vice Chair Wise brought up how the agreement is written. If the Board reaches an agreement with one of the small properties on either end, but not Albertsons. Staff is proposing that we proceed with that. He asked that everyone please think about that. He shared, about the wing properties would, the agreement be reached would have to be contingent upon them being able to close successfully on the Albertsons' property. He stated, I do not think the board would want to purchase one of the wings without the core property.

Commission Pignataro asked if they could give what the next steps are.

Clay stated the next steps are opening up negotiations with the property owners. In response to Vice Chair Wise, Clay stated, that he does not think staff would want to move forward with just one of the wing properties. After the negotiations with property owners, there will be several other actions with the board. Overall, the next step is simply communication and putting an initial offer on the table that is in line with the appraisals

Interim Executive Director Birks stated if they were capable of arriving at an agreed-upon price with one or more of the properties to purchase and sale agreement would have to come back to the Board for approval, as well as the appropriation of the dollars, necessary to acquire the

property. Birks suggested that a consensual agreement with one or more properties, and that would reduce the non-consensual acquisition that they may need to make. Therefore, you may want to state as Vice Chair Wise, that any purchase and sale agreement should include a contingency that the Board would be able to acquire all the properties that you are interested in.

Birks stated that I would not amend tonight's resolution because if we were able to say, come to an agreement with one of the wing properties, and they would accept that condition of not closing until the Board were able to acquire Albertsons' property and they had to go through an Eminent Domain process to acquire that particular piece.

Vice Chair Wise, stated he concurred and wants to be sure that the Board is transparent with everybody, including the owners of the secondary and tertiary properties, that any agreement with them is going to be contingent upon reaching a satisfactory conclusion with the Albertsons' property.

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| RESULT: | RESOLUTION NO. 124 ADOPTED (UNANIMOUS: 6-0) |
| MOVER: | Julie Pignataro |
| SECONDER: | Tricia Canonico |
| AYES: | Arndt, Wise, Ohlson, Pignataro, Canonico, Draper |
| EXCUSED: | Francis, Peel, Gutowsky (remote-unable to vote), Wise (remote-unable to vote), Stephens (remote-unable to vote), Smith (remote-unable to vote) |

- **OTHER BUSINESS**

None.

- **ADJOURNMENT**

The meeting adjourned at 5:45 p.m.

Chair

ATTEST:

Secretary