



*Where Life is Sweet*

Mayor and Members of the City Council  
**STAFF REPORT**  
For the Meeting of November 28, 2022

**Title/Subject**

Resolution #2246- Establishing the Necessity for a sewer main easement.

**Summary and Background**

This resolution establishes the public's necessity, for public health and safety, to obtain an easement across two properties (4N2802C00; Tax Lots 1300 & 1403). These properties are located south and west of US395 and E Cornell Place and would generally be known as the building and parking lot for the commercial property which currently leases to Sherwin Williams paint store.

The purpose for this easement is to accommodate the project known as S.12.0 in the most recently adopted Sewer Capital Improvement Plan. The 2021 Sanitary Sewer Collection System Study used a camera to internally inspect sewer mains, and pipe segments here were found to have structural failures in multiple locations with failing joints, causing pipe blockage and requiring monthly cleaning. Additionally, pipe failure may be allowing sewage to exfiltrate into the surrounding soil. New sewer lines would eliminate current monthly maintenance costs and provide watertight lines to protect existing groundwater resources from contamination.

You can view pictures taken from within this section of piping in the attachment titled, "Television Inspection Photos," which shows significant holes, and potential blockages in the line.

Anderson Perry & Associates, Inc., the City's engineering firm, supplied the following summary of the various alternatives considered for this project:

**Alternatives Considered:**

1. The existing sewer main runs north from McDonalds and then turns 90-degrees to cross 395. Open trenching on 395 was considered but the idea was quickly discarded because it would be enormously expensive and disruptive to the 25,000 vehicles per day using that intersection.
2. Pipe bursting across 395 was also considered, but pits on either end of the line are necessary and would also be extremely disruptive to property owners. Furthermore, pipe bursting is also not cheap, although it would less expensive than open trenching across 395.

3. Instead of crossing 395 we could have run a sewer line parallel to it and connected to the sewer line in Cornell. A power pole would have to be relocated in order for this to occur. Relocating the power pole was not feasible due to cost.
4. In order to avoid the power pole conflict a small easement was necessary to slightly change the horizontal alignment. That is where we ended up today. Much of the existing sewer line is actually located on private property with no recorded easements. The project is largely relocating pipe off of private property with the exception of the small sliver needed near the intersection of 395 and Cornell.

Legal Staff has been working with the property owner(s) of the tax lots in question since the Spring, and have found them to be un-responsive. The property is owned by a trust with several individuals involved, and there is some disagreement internal to the trust as to which should be dealing directly with the City on this issue. The temporary and long term impacts to the properties are relatively minor, and the cash value to be paid for the easement is relatively low, which may be partly why the trust has been reluctant to put forth much effort on this; as the attorneys' fees to deal with each other internally are likely to outstrip the value of the easement itself. But the lack of movement does not appear to be due to an outright opposition to granting the easement.

Therefore, this resolution authorizes City Staff and legal counsel to hire appraisers, negotiate in good faith to purchase the easement, pay fair compensation for the easement, and engage in formal litigation to obtain the easement for fair compensation.

The reason that this approach is recommended is that it provides the City with the ability to obtain the necessary easement, deposit appropriate compensation with the Court, and allow the members of the trust to proceed at their own pace.

### **Tie-In to Council Goals**

System Maintenance

### **Fiscal Information**

The potential cost of obtaining this easement in this manner is estimated to be significantly less than the financial cost of the other alternatives examined by Anderson Perry. Fair Market Value, using the "Federal Method" of determining the value of an easement places the value between \$3,392 and \$6,785.

### **Alternatives and Recommendation**

#### **Alternatives**

- Approve Resolution 2246
- Reject Resolution 2246
- Table and request amendments

#### **Recommended Action/Motion**

Approve Resolution 2246 as presented.

**Submitted By:**

Mark Morgan