

Legislation Text

File #: 17-302, **Version:** 1

Presenter/Contact

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SUBJECT:

Discuss and consider approval of a resolution authorizing the use of Eminent Domain Proceedings under Chapter 251 of the Texas Local Government Code and Section 2.03 and Section 11.08 of the City of New Braunfels Municipal Charter, on that Parcel owned by Joyce T. Weltner Living Trust, being a 3.564-acre tract situated in the A.M. Esnaurizar Eleven League Grant, Guadalupe County, Texas out of that certain 65 acre tract (tract two) described in Volume 1315, page 280 of the Official Real Property Records of Guadalupe County, Texas as part of New Braunfels Utilities electric system's substation and related appurtenances expansion.

BACKGROUND / RATIONALE:

NBU has experienced significant residential and commercial growth in the Highway 46 South corridor between New Braunfels and Seguin. Currently, NBU distributes power from its Freiheit Substation located on FM 1101 to the Highway South 46 corridor. NBU anticipates that the Freiheit Substation will exceed 90% capacity, a critical point, by summer 2019. As such, NBU must begin design of a new substation by the fall of 2017 to have the substation constructed and energized to meet the demand for power beginning in summer 2019 along the Highway South 46 corridor.

In 2015, NBU Engineering began analyzing different potential locations for a substation. NBU primarily identified the sites with the overriding goal of being constructed underneath the LCRA T-264 transmission line. This approach would eliminate costly transmission line extensions. By December 2015, NBU identified four sites for the proposed substation. These sites are located on or between FM 758 and Avery Park subdivision.

Of the four sites, NBU decide that the 3.564 acre tract ("Site #2") owned by the Joyce T. Weltner Living Trust (the "Property Owners") was the most suitable for the proposed substation for the following reasons:

- Property Owners expressed a desire to sell a portion of their property to NBU
- Investment in infrastructure for Site #2 is less costly than other sites
- Site #2 is not a proposed site for immediate development
- Site #2 lies in airport approach zone 2
- The City has redirected FM 758 adjacent to Site #2 in its 2012 Regional Transportation Plan

NBU explored three other sites, but two of the three sites were significantly more expensive than Site #2. These two sites would also require NBU to obtain easements from various property owners for

transmission and distribution line extensions, including an easement from the Property Owners of Site #2. The owner of the third site expressed a strong desire not to sell his property because he has already master planned it for development.

Based on this analysis, NBU has worked with the Property Owners of Site #2 since the summer of 2015. The Property Owners are open to selling a portion of Site #2. Consequently, NBU made an initial offer of \$75,962.00 for Site #2 to the Property Owners on January 4, 2017 based on an appraisal from October 2016. The initial offer was more than the appraised amount of the property. The Property Owners did not respond to the initial offer.

On March 1, 2017, NBU sent a final offer letter to the Property Owners to acquire the necessary property rights for the NBU substation expansion.

To date, NBU has been unable to reach an agreement with the Property Owners with regard to compensation. In fact, the only offer NBU has received from the Property Owners' attorney was to sell the 3.564-acre site for \$500,000.00.

NBU has only acquired property through condemnation twice in seventy-five years. Consequently, NBU will continue to work with the Property Owners to reach an agreement. However, because NBU must begin the design and construction of the proposed substation to meet the needs of the City in the summer 2019, NBU believes it is necessary to begin condemnation proceedings at this time.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.
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FISCAL IMPACT:

NBU is responsible for payment of all necessary costs associated with Eminent Domain Proceedings.

COMMITTEE RECOMMENDATION:

On March 30, 2017, the NBU Board of Trustees adopted a resolution recommending that the City acquire the subject property in fee simple interest, by purchase or through the use of eminent domain.

NBU STAFF RECOMMENDATION:

NBU staff recommends initiating Eminent Domain Proceedings to acquire the necessary property rights from the Property Owners.