ORDINANCE NO. 1516

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE ACQUISITION OF PROPERTY BY PURCHASE OR CONDEMNATION.

WHEREAS, on November 26, 2013, the City Council passed Resolution No. 2322 authorizing the Mayor to sign a Sewer Development Financing Contract and Utility Latecomer Agreement with Kahne Properties, LLC (hereinafter “Financing Contract”); and

WHEREAS, in approving the Financing Contract, the Council found that extending sewer infrastructure into Eastown would have significant public benefit; and

WHEREAS, the Financing Contract provides for the extension of the sewer facilities to be financed with both City and private funds, for the City to manage the construction project as a Public Work, and for the City to use its eminent domain authority if necessary to acquire easements; and

WHEREAS, after executing the Financing Contract, the City retained an engineer to design the sewer extension, as well as a right-of-way agent to negotiate acquisition of a sewer easement from the owners of the Shepard/Morris property, Pierce County Parcel No. 0519022007; and

WHEREAS, the City’s right-of-way agent has attempted numerous contacts with the property owners and has made offers to purchase the property, but has not been successful in reaching agreement; and

WHEREAS, the Property Owners have been provided the notice required under RCW 8.12.005 and RCW 8.25.290.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The City Attorney is authorized to file a Petition in Eminent Domain to acquire an easement for a sewer main, along with any necessary slope easements and construction easements, on the Property, located at 21704 State Route 410 East, Bonney Lake, Pierce County, Washington (Pierce County Parcel No. 0519022007). Said acquisition shall follow the legal descriptions attached as Exhibit A and Exhibit A-2 and substantially take the form of the attached Exhibit B and Exhibit B-2 (graphic representations of easement areas); provided that City staff, and/or the City Attorney, shall make diligent efforts to acquire the easements by negotiated purchase if the property owners are willing to negotiate.

Section 2. Acquisition of the sewer easement and associated slope easement is for public use and necessity for the reasons set forth in the Financing Contract. This Council’s prior findings with regard to public use and benefit are incorporated by reference as if set forth in full.
Section 3. This Ordinance concerns powers solely vested in the Council as a legislative body, and shall take effect five days after passage.

PASSED by the City Council and approved by the Mayor this 21st day of April, 2015.

Neil Johnson, Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

Passed: 4/21/2015
Valid: 4/21/2015
Published: 4/29/2015
Effective Date: 5/4/2014
This Ordinance totals 6 page(s)
EXHIBIT A
SLOPE EASEMENT DESCRIPTION
SHEPARD PROPERTY
TAX PARCEL NO. 051902-2-007

AN EASEMENT OF VARYING WIDTHS BEING A PORTION OF THE HEREINAFTER DESCRIBED PARCEL, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL; THENCE ALONG THE WEST LINE THEREOF NORTH 01°43'40" EAST, 97.02 FEET; THENCE LEAVING SAID WEST LINE SOUTH 89°28'51" EAST, 15.00 FEET; THENCE PARALLEL WITH AND 15 FEET EAST OF SAID WEST LINE SOUTH 01°43'40" WEST, 82.16 FEET TO A POINT 15 FEET NORTH OF THE SOUTH LINE OF SAID PARCEL; THENCE PARALLEL WITH AND 15 FEET NORTH OF SAID SOUTH LINE SOUTH 88°55'51" EAST, 38.58 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID PARALLEL LINE NORTH 01°04'09" EAST, 20.00 FEET; THENCE PARALLEL WITH AND 35 FEET NORTH OF SAID SOUTH LINE SOUTH 88°55'51" EAST, 300.00 FEET TO THE EAST LINE OF SAID PARCEL; THENCE ALONG SAID EAST LINE SOUTH 01°33'27" WEST, 14.50 FEET; THENCE LEAVING SAID EAST LINE SOUTH 88°65'51" WEST, 10.82 FEET; THENCE PARALLEL WITH AND 15 FEET NORTH OF THE SOUTH LINE OF SAID PARCEL NORTH 88°55'51" WEST, 290.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,973 SQUARE FEET, MORE OR LESS.

PARCEL (PER PIERCE COUNTY TAX ASSESSOR)
BEGINNING ON THE SOUTH LINE OF GOVERNMENT LOT 4 AT A POINT 980 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID LOT 4 TO STATE HIGHWAY; THENCE SOUTHEASTERLY ALONG SAID HIGHWAY TO THE EAST LINE OF SAID LOT 4; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 4 TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG SAID SOUTH LINE OF SAID LOT 4 TO THE POINT OF BEGINNING.

EXCEPT ADDITIONAL RIGHT-OF-WAY AS CONVEYED TO THE STATE OF WASHINGTON.

SITUATE IN GOVERNMENT LOT 4, SECTION 2, TOWNSHIP 19 NORTH, RANGE 05 EAST, W.M., CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON.
EXHIBIT A - 2
SANITARY SEWER EASEMENT DESCRIPTION
SHEPARD PROPERTY
TAX PARCEL NO. 051802-2-007

AN EASEMENT 15.00 FEET IN WIDTH BEING THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL LYING WESTERLY AND SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL; THENCE ALONG THE WEST LINE THEREOF NORTH 01°43'40" EAST, 97.02 FEET TO THE POINT OF BEGINNING OF THIS LINE DESCRIPTION; THENCE LEAVING SAID WEST LINE SOUTH 89°28'51" EAST, 15.00 FEET; THENCE PARALLEL WITH AND 15 FEET EAST OF SAID WEST LINE SOUTH 01°43'40" WEST, 82.16 FEET TO A POINT 15 FEET NORTH OF THE SOUTH LINE OF SAID PARCEL; THENCE PARALLEL WITH AND 15 FEET NORTH OF SAID SOUTH LINE SOUTH 88°55'51" EAST, 328.13 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 60°33'26" EAST, 10.82 FEET TO THE EAST LINE OF SAID PARCEL AND THE TERMINUS OF THIS LINE DESCRIPTION; FROM SAID TERMINUS THE SOUTHEAST CORNER OF SAID PARCEL BEARS SOUTH 01°33'27" WEST, 20.50 FEET.

CONTAINING 6,558 SQUARE FEET, MORE OR LESS.

PARCEL (PER PIERCE COUNTY TAX ASSESSOR)
BEGINNING ON THE SOUTH LINE OF GOVERNMENT LOT 4 AT A POINT 980 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID LOT 4 TO STATE HIGHWAY; THENCE SOUTHEASTERLY ALONG SAID HIGHWAY TO THE EAST LINE OF SAID LOT 4; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 4 TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG SAID SOUTH LINE OF SAID LOT 4 TO THE POINT OF BEGINNING.

EXCEPT ADDITIONAL RIGHT-OF-WAY AS CONVEYED TO THE STATE OF WASHINGTON.

SITUATE IN GOVERNMENT LOT 4, SECTION 2, TOWNSHIP 19 NORTH, RANGE 05 EAST, W.M., CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON.
GOV'T LOT 4, SECTION 2, TOWNSHIP 19 N, RANGE 5 E, WM
BONNEY LAKE, WA

TAX PARCEL #
0519022007

SLOPE ESM'T (5973 S.F.)

TAX PARCEL #
0519022005

15' WIDE SAN SEWER ESM'T (6,558 SF.)

TAX PARCEL #
0519022033

EXHIBIT B
PARCEL # 0519022007
SLOPE EASEMENT
Date: July 1, 2014

TO: John Woodcock

FROM: Teri Stevenson, Project Coordinator / Sr. Administrative Specialist

RE: Project Name: Eastown South ULA Sewer Improvement Project
    Project Parcel No: 1
    Parcel Ownership: Ketura Morris, et al.

Enclosures:

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<td>Concurrence and authorization for payment of Just Compensation</td>
<td>Review, approve, return 1 copy via e-mail to Universal Field Services <a href="mailto:dfrink@ufsrw.com">dfrink@ufsrw.com</a></td>
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REMARKS:

Any questions, please do not hesitate to contact me.
CONCURRENCE AND AUTHORIZATION FOR PAYMENT OF JUST COMPENSATION

Project Name: Eastown South ULA Sewer Improvement Project
Project Parcel No: 1
Parcel Ownership: Ketura Morris, et al.

The undersigned, representing the City of Bonney Lake ("Agency"), does hereby indicate concurrence with the value conclusion in the Appraisal for this parcel in the amount of $19,500.00 and does authorize further action by the Agency/its agents to proceed with the acquisition of the designated property according to established procedures.

City of Bonney Lake

Printed Name: [Signature]
Title: City Engineer

July 3, 2014
Date
March 25, 2015

To: Property Owners of Property Identified as Pierce County Tax Parcel Number 0519022007
Distribution List

Subject: SECOND NOTICE OF FINAL ACTION ON CONDEMNATION OF REAL PROPERTY

Property Owners:

The City has repeatedly attempted to purchase a utility easement on the property you own, located at 21704 State Route 410 East, Bonney Lake, Pierce County, Washington, Pierce County Parcel No. 0519022007, in order to extend the City’s sewer system for public use. After multiple unsuccessful attempts to communicate with you to reach a negotiated agreement to purchase this easement for $19,500, you are hereby advised that acquisition of this easement will now be pursued through eminent domain in accordance with Chapter 8.12 RCW, RCW 8.25.290, and as previously authorized by City of Bonney Lake Ordinance 1441.

Pursuant to RCW 8.25.290, notice is hereby given that the City Council of the City of Bonney Lake, Washington, will consider final action to authorize the condemnation of a fifteen (15) foot wide easement and twenty (20) foot wide slope easement for a sewer gravity main on the above-referenced real property during the regular meeting of the Bonney Lake City Council on Tuesday, April 14, 2015, at 7:00 p.m., in the City Council Chambers, 9002 Main Street East, Bonney Lake, Washington 98391. Location of the necessary sewer easement and slope easement is depicted on Attachment A to this Notice. On the date and time referenced above, the Council will consider enacting an ordinance authorizing the taking of the easement via an action in Eminent Domain. Notice is being given to all property owners of record in the files of the Pierce County Assessor. The property owners are requested to attend the April 14 meeting and indicate whether they consent to the City’s offer to acquire this easement.

If you have any questions, please do not hesitate to contact me.

Respectfully,

DANIEL L. GRIGSBY, P.E.
Public Works Director

Attachment A: Sewer Easement Description and Location Map
Distribution List:

James H. and Oliva I. Shepard
Trustees, James H. and Oliva I. Shepard Revocable Living Trust
16018 West Starlight Drive
Surprise, Arizona, 85374-5002

Edwin W. Morris, Jr. and Michelle R. Morris
17301 159th Avenue Southeast
Renton, Washington 98508

Keturah Morris and the heirs at law of Robert M. Morris
1931 South Sheridan Avenue
Tacoma, Washington 98405

Sharon I. Morris
624 North Meyers Street #B34
Tacoma, Washington 98406

Edwin M. Morris
Mashiko 660
Mashiko – Machi, Tochigi – Ken Haga – gun
Japan

Copy To:
Roberts, Johns, & Hemphill
Attn: Mark Roberts
7525 Pioneer Way, Suite 202
Gig Harbor, WA, 98335

Chet Morris
1943 S. Sheridan Ave,
Tacoma, WA 98405
City of Bonney Lake
City Council Agenda Bill (AB)

Department / Staff Member: PW/John Woodcock
Meeting/Workshop Date: April 14, 2015
Agenda Bill Number: AB-15-53

Agenda Item Type: Ordinance
Ordinance/Resolution Number: D15-53
Councilmember Sponsor: Donn Lewis

Agenda Subject: Authorizing a Condemnation Ordinance for the Eastown Southern Sewer Development for the Shepard/Morris Property.

Full Title/Motion:
An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing a Condemnation Ordinance for the Eastown Southern Sewer Development for the Shepard/Morris Property.

Administrative Recommendation:

Background Summary:
The City Council approved Resolution 2322 on November 26th, 2013 to establish the Eastown Southern Sewer Development Contract and Utility Latecomer Agreement (ULA). City Council then amended and approved the 2013 – 2014 City Adopted Budget on November 26, 2013 to address costs for design, easement acquisition, and construction activities for the Eastown Southern Sewer project. The ULA obligates the City to use eminent domain authority to acquire necessary easements if negotiations fail.

The design effort has established the amount of land the City needs to purchase for an easement to construct the portion of the sewer main across the Shepard/Morris property (Parcel #0519022007). The City Council approved Resolution 2382 with Universal Field Services to acquire the sewer easement across the Shepard/Morris property that will encompass approximately 5,973 square feet within the property’s non-buildable set-back.

Despite presenting the property owners with a written offer of $19,500 on 7/3/14, our real-estate team has not been able to get a meaningful response from the owners.

Attachments: Ordinance, Just Compensation Authorization, Second Notice of Condemnation Action, Legal Description, Easement Map,

BUDGET INFORMATION

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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee: CDC
Chair/Councilmember: Donn Lewis

Committee Date: September 16, 2014
Councilmember: Randy McKibbin
Councilmember: James Rackley

Forwarded to: Consent Agenda: [ ] Yes [ ] No

Commission/Board Review:

Hearing Examiner Review:

Rev. January 2014
## COUNCIL ACTION

| Workshop Date(s): | 16 September 2014 |
| Public Hearing Date(s): | |
| Meeting Date(s): | 14 February 2015 |
| Tabled to: | |

## APPROVALS

<table>
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<th>Director:</th>
<th>Mayor:</th>
<th>Date Reviewed by</th>
</tr>
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City Attorney:
(if applicable):