

BOARD OF ALDERMEN

ITEM NO. C(3)

AGENDA ITEM ABSTRACT

MEETING DATE: September 4, 2012

TITLE: Request for Approval of a Municipal Agreement, Utility Agreement, and Conveyance of Utility Easements for Smith Level Road Improvements

DEPARTMENT: Planning	PUBLIC HEARING: YES ___NO__X__
ATTACHMENTS: A. Resolutions – Municipal Agreement, Utility Agreement, utility easement conveyance B. Easement map C. Budget ordinance	FOR INFORMATION CONTACT: Jeff Brubaker – 918-7329 Trish McGuire – 918-7327 George Seiz – 918-7427 Travis Crabtree – 918-7349 Arche McAdoo – 918-7439

PURPOSE

The purpose of this item is for the Board to review and consider approving a Municipal Agreement and Utility Agreement with the North Carolina Department of Transportation pertaining to certain elements of the Smith Level Road Transportation Improvement Program project (U-2803). The Board is also asked to consider approval of the conveyance to NCDOT of four (4) utility easements, necessary for the construction and maintenance of the project, on land currently owned by the Town. Finally, a budget amendment is necessary to appropriate funding from the Capital Reserve Fund for the expenses referenced in the agreements.

INFORMATION

On September 28, 2010, the Board of Aldermen approved a conceptual design for NCDOT TIP Project U-2803 for improvements to Smith Level Rd. NCDOT subsequently developed preliminary plans, which they presented to the Board on November 22, 2011, and February 7, 2012. These formal presentations were designed to update the Board on the project's status and address concerns from the public about right-of-way acquisition, easements, and project impacts.

The project schedule is as follows:

- September 2012 – Right-of-way certification
- December 2012 – Project letting
- January 2013 – Project award
- February 2013 – Construction commencement

Municipal Agreement

According to NCDOT's Pedestrian Policy Guidelines, municipalities with populations between 10,000 and 50,000 must contribute to 30% of the cost of sidewalks included in TIP projects. Municipalities must also assume responsibility for any right-of-way acquisition needed

specifically for sidewalks and assume maintenance responsibilities for the sidewalks after the project is completed. The draft Municipal Agreement states that the estimated cost of the sidewalks is \$141,372; therefore, the Town's 30% contribution is estimated to be \$42,412.

At the Town's request, NCDOT plans to install bicycle loop detection at the BPW Club Rd. and Culbreth Rd. intersections, which will allow bicyclists stopped at the BPW Club or Culbreth approaches to call for green lights by positioning their bikes over the clearly-marked detectors. The Town will be responsible for the additional costs associated with installing bike loop detectors, estimated to be \$1,150.

The draft Municipal Agreement establishes these cost-sharing arrangements and also includes provisions related to maintenance, utilities, and right-of-way acquisition. Relating to right-of-way acquisition, the draft Municipal Agreement states (Sec. 10A):

It is understood by both parties that all sidewalk work shall be performed within the existing right of way. However, should it become necessary, the Municipality, at no expense or liability whatsoever to the Department, shall provide any needed right of way and or construction easements for the construction of the sidewalks, and remove from said rights of way all obstructions and encroachments of any kind or character.

Town responsibility for right-of-way acquisition would require additional staff time and be inefficient, since NCDOT Division Right-of-Way staff have already begun to acquire and settle ROW claims. The first sentence in the draft Municipal Agreement language excerpted above appears to indicate that the extent of ROW acquisition shown in the plans is not affected by the inclusion of sidewalks. This accords with the following language on p. 14 of the Pedestrian Policy Guidelines: "Since the DOT's typical curb and gutter cross-section generally has a 3.0 meter (10 foot) berm, a 1.5 meter (5 foot) pedestrian facility may fit within this standard right-of-way." In other words, for the typical project, it is not the sidewalk itself, but the berm, that influences the extent of ROW acquisition.

Town staff have communicated with NCDOT staff to clarify the meaning and implications of the above Municipal Agreement language. Specifically, the Town Attorney has suggested that it be replaced by the following language:

It is understood by both parties that all sidewalk work shall be performed within the existing right-of-way or right-of-way acquired by the Department for this project.

As of this writing, NCDOT has not yet completed their review of the alternate language. An update on whether the language was able to be changed to reflect the Town Attorney's suggestion will be provided at the meeting.

Utility Agreement

The Utility Agreement establishes the Town's responsibility to pay for three (3) new fire hydrants installed as part of the project. The estimated cost to the Town is \$19,000. This includes the cost of the hydrants themselves plus the extension of a water line underneath Smith Level Road to service one of the hydrants.

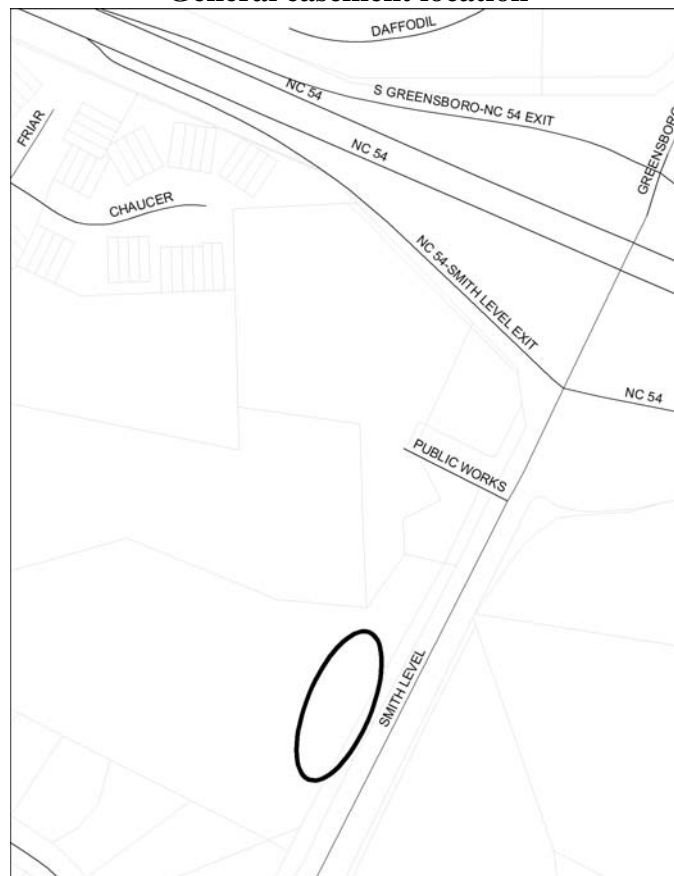
Utility easements

NCDOT is in the process of obtaining various easements from properties adjacent to the project. The Town owns a 20 acre tract on the west side of Smith Level Road (just south of Morgan Creek), and NCDOT has requested the Town grant the following easements (see map in *Attachment B*):

1. Two Drainage Utility Easements (DUEs – shaded in blue on the attachment) for storm drainage outfalls. The one DUE is 0.036 acres (roughly 44 ft x 36 ft) and the other is 0.030 (roughly 44 ft x 30 ft).
2. One Aerial Utility Easement (AUE – shaded in brown) for the relocation of an existing power pole that holds electric wires as well as other cables. The AUE is 0.011 acres (roughly 22 ft x 21 ft).
3. One Permanent Utility Easement (PUE – shaded in purple) for relocation of some existing buried cable and/or gas line. Also allows maintenance of overhead wires. The PUE is 0.063 acres (roughly 110 ft x 25 ft).

All of the easements are on the west side of Smith Level Road extend westward from the existing right-of-way line. The 20 acre tract was dedicated to the Town as open space during the development of Berryhill Phase III & IV. The Town accepted the open space dedication in April of 2001. There will be some tree clearing necessary for the aerial easement and the south drainage easement. Because most of the 20 acre tract is either in the floodway or floodplain, the use of these easements for installation and maintenance of the utilities will not unduly encumber the use of the tract.

General easement location



FISCAL AND STAFF IMPACT

Municipal Agreement

The adopted 2012-2013 Budget allocates \$207,000 toward the cost sharing requirement to construct sidewalks for this project. This amount is greater than the estimated cost of \$42,412 and should provide the Town with sufficient funding if the actual cost exceeds the estimate. The allocation is currently in the Capital Reserve Fund.

The budget includes the necessary \$1,150 for the Town's contribution to bike detection for the Smith Level Rd. project.

Utility Agreement

The budget ordinance in *Attachment C* appropriates the funding for the fire hydrant installation referenced in the Utility Agreement.

Utility easements

It is proposed that the easements be donated to NCDOT.

Summary

The following table summarizes the estimated local contributions.

Item	Amount
Sidewalks	\$42,412
Bicycle loop detection	\$1,150
Fire hydrants	\$19,000
TOTAL	\$62,562

Since NCDOT does not maintain sidewalks and bicycle loop detectors, the Town will be responsible for their maintenance. This responsibility will incur additional operations costs.

The cost estimate for the entire project given in 2010 was \$3.45 million. A majority of the project is being funded by state highway funding.

RECOMMENDATION

Staff recommend that the Board consider the resolution in *Attachment A* approving: 1) the Municipal Agreement with NCDOT for TIP Project U-2803, 2) the associated Utility Agreement, and 3) the conveyance of utility easements. Staff also recommend that the Board consider the budget ordinance in *Attachment C* to appropriate the necessary funding for the items referenced in the agreements.