

**AGENDA**  
**NORTH AURORA ROAD (NAR) PROJECT TEAM**  
**JULY 18, 2024, AT 1:30 P.M.**  
**NAPERVILLE EMPLOYEE UNIVERSITY**  
**ON THE LOWER LEVEL OF THE NAPERVILLE MUNICIPAL CENTER**  
**400 S. EAGLE STREET**  
**NAPERVILLE, IL 60540**

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- I. CALL TO ORDER / ROLL CALL
- II. APPROVAL OF ATTENDANCE OF NAR PROJECT TEAM MEMBERS BY OTHER MEANS (if a quorum of four members of the NAR Project Team is physically present).
- III. PUBLIC COMMENT
- IV. APPROVAL OF MINUTES of July 1, 2024 NAR Project Team meeting.
- V. OLD BUSINESS
  - a. Ratification of a revision to the Construction and Management Agreement with BNSF Railway Company approved on July 1, 2024 by including the language in (i) below in replacement of the language in (ii) below in Article II, Section 2 of that Agreement.
    - (i) Agency agrees to reimburse BNSF for work of an emergency nature caused by Agency or by the Contractor in connection with the Project which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of Agency and Agency agrees to fully reimburse BNSF for all such emergency work. BNSF shall, as soon as practicable, notify the City Engineer after emergency work has been performed. Failure to provide such notice shall not constitute a breach of this Agreement.
    - (ii) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, BNSF IS NOT A CONTRACTOR, AGENT, PARTNER, OR JOINT VENTURER OF THE STATE, THE AGENCY, OR IDOT BECAUSE OF THIS AGREEMENT OR THE PROJECT OR BECAUSE OF BNSF'S PERFORMANCE OF ITS PORTION OF THE WORK. LIKEWISE, BNSF'S EMPLOYEES, AGENTS, CONTRACTORS, AND SUBCONTRACTORS WHO MAY ASSIST BNSF IN PERFORMING ITS PORTION OF THE WORK ARE DOING SO FOR BNSF'S BENEFIT ONLY, AND ARE NOT—AND SHALL NOT BE DEEMED TO BE—EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR AGENTS OF THE STATE, THE AGENCY, OR IDOT. BNSF agrees to observe and comply with all applicable State and Federal laws, but only to the extent such laws may apply to BNSF's

portion of the Work. Consistent with the disclaimers above, the AGENCY acknowledge that, because neither BNSF nor its employees, agents, contractors, and subcontractors are contractors, subcontractors, employees, or agents of the STATE, the AGENCY, or IDOT, such State and Federal laws may not apply under certain circumstances. Nothing in this Agreement is intended to waive, nor shall it waive, the preemptive effect of Federal law as to BNSF because of its status as a common carrier. If a conflict exists or arises between this Section 7 and any other provision of this Agreement and/or its exhibits and attachments, then this Section 7 shall control.

## VI. NEW BUSINESS

- a. Discussion of Project costs and new funding.
- b. Resolution of the NAR Project Team Approving Certain Wisconsin Central Ltd. Agreements Pertaining to the North Aurora Road Widening Project, namely: (i) a Construction and Maintenance Agreement; (ii) a Temporary Easement Agreement; and (iii) a Permanent Easement Agreement.
- c. Discussion of other NAR agreements.
- d. Discussion of timing of IDOT letting for the NAR Project.

## VII. ANNOUNCEMENTS/NAR PROJECT TEAM COMMENTS

## VIII. ADJOURNMENT

Further information is available on the City of Naperville website at:

[www.naperville.il.us/north-aurora-improvements](http://www.naperville.il.us/north-aurora-improvements)

**MINUTES**  
**NORTH AURORA ROAD (NAR) PROJECT TEAM MEETING**  
**JULY 1, 2024, 1:30 P.M.**  
**NAPERVILLE EMPLOYEE UNIVERSITY**  
**CITY OF NAPERVILLE**  
**400 S. EAGLE STREET**  
**NAPERVILLE, IL 60540**

**I. CALL TO ORDER / ROLL CALL**

Bill Novack, City of Naperville, called the NAR Project Team meeting to order at 1:33 p.m. The meeting was held in-person at the Naperville Employee University (NEU) room of the Naperville Municipal Center, 400 S. Eagle St., Naperville, IL.

Present:

(NAR Project Team Members Listed by Agency)  
City of Aurora: Tim Weidner; and Brian Witkowski  
City of Naperville: Bill Novack; Andy Hynes; and Matt Calpin  
Naperville Township: Eddie Bedford

Absent:

Naperville Township: Paul Santucci

Also Present:

Pat Lord, City of Naperville Legal Counsel; and Rebecca DeLarme, City of Naperville administrative staff

**II. INTRODUCTIONS**

DeLarme was introduced to the NAR Project Team and will be taking minutes for the meetings.

**III. PUBLIC COMMENT**

There were no public comments.

**IV. APPOINTMENT OF NAR PROJECT TEAM CHAIR**

**A motion was made to appoint Novack as NAR Project Team Chairman by Weidner and seconded by Bedford. MOTION PASSED UNANIMOUSLY by voice vote.**

**V. NEW BUSINESS**

- a. Resolution of the NAR Project Team Approving Certain Agreements Pertaining to the North Aurora Road Widening Project

Novack reviewed the following items in which excerpts were included as part of the agenda packet, with Lord reminding the group that the entire documents were previously provided and available electronically.

(i) ComEd North Aurora Road Tower Relocation Deposit Letter

Novack discussed the first item for consideration for the \$250,000 deposit needed by ComEd for the detailed engineering within the appropriate timeframe for the transmission tower relocation. Calpin discussed the cost which he believed to be split between the three agencies as this was a detailed engineering cost that is not a reimbursable construction cost and was in accordance with the 5<sup>th</sup> Intergovernmental Agreement (IGA) between the City of Naperville (Naperville), the City of Aurora (Aurora), and Naperville Township (Township). He noted that only actual costs from ComEd would be reimbursed. Bedford expressed concern with splitting this expense and it was determined that this cost was in the confines of what was already agreed upon and considered to be part of construction engineering under the Local Share Funding agreement.

Weidner inquired about the status of the easement agreements with ComEd, Calpin reported they are currently awaiting design approval and as soon as received work can continue on the easement agreements. Lord continues to work with Legal Counsel from ComEd, the City of Aurora and Naperville Township on the easement templates.

(ii) Construction and Maintenance Agreement with BNSF Railway Company

Novack explained that this agreement with BNSF, which is one of three, allows for the construction to be performed within BNSF's property. Witkowski inquired about the need for permits for future maintenance of the retaining walls. Lord noted that permits would always have to be obtained. Calpin advised that it was stated in the 5<sup>th</sup> IGA that Wisconsin Central LTD would own and maintain the southeast corner wall, Naperville would be responsible for the northeast retaining wall, and the Township would be responsible for the northwest and southwest retaining walls.

(iii) Access Agreement with BNSF Railway Company

Novack noted that the Access Agreement with BNSF Railway Company was in line with what has been previously negotiated. There were no questions or concerns.

(iv) Permanent Easement Agreement with BNSF Railway Company

Novack noted this agreement was for BNSF's property on the north side of our right-of-way on the west side of the bridge. There were no questions or concerns.

Weidner inquired about one vote per agency that was previously agreed upon and the multiple signature lines listed on the agreements. Lord explained that when the NAR Project Team was developed it was decided that it would be fair to allow one vote per agency since Naperville had more members. Each NAR Project Team member's

signature was included on the agreements because it was not determined which member from each agency would be signing the documents.

**A motion to adopt the resolution of the NAR Project Team approving certain agreements pertaining to the North Aurora Road Widening Project, namely: (i) ComEd North Aurora Road Tower Relocation Deposit Letter; (ii) Construction and Maintenance Agreement with BNSF Railway Company; (iii) Access Agreement with BNSF Railway Company; and (iv) Permanent Easement Agreement with BNSF Railway Company, was made by Hynes and seconded by Bedford. MOTION PASSED with the following votes per agency:**

**Aye: 3 -**

City of Aurora (Weidner)  
City of Naperville (Novack)  
Naperville Township (Bedford)

b. Discussion of Wisconsin Central Ltd Force Account

Novack advised that the Wisconsin Central Ltd Force Account was received last week and that no action will be taken at this meeting. Calpin advised that the estimate was \$2.2M more than anticipated, flagging costs were not included, and they assumed we would be providing the bottom 8" of ballast. He is awaiting additional information from Wisconsin Central. Weidner inquired about the state tax that was added on the Operations Special Capital Project Estimate page. Calpin will also follow up on this item.

c. Resolution of the NAR Project Team Approving Rules for Electronic Attendance

Lord reviewed the Rules for Electronic Attendance which states if a quorum of the members of the NAR Project Team are physically present at a meeting of the NAR Project Team, a majority of its members may allow up to three (3) members to attend the meeting by video or audio conference if said members: (a) give advance verbal or written notice to the Project Manager (Matt Calpin) of their intent to attend electronically, unless advance notice is impracticable; and (b) so long as the member(s) in question are prevented from physically attending due to: (i) personal illness or disability; (ii) employment purposes or the business of the public body; (iii) a family or other emergency; or (iv) unexpected childcare obligations.

Discussion followed on using a laptop computer at future meetings should the need arise for NAR Project Team Members to attend electronically, via Microsoft Teams. It was noted that at least four NAR Project Team members need to be present, in person. The Microsoft Teams meeting information will be provided to the NAR Project Team members but not listed on the public notice.

**A motion was made by Calpin and seconded by Witkowski to adopt the resolution of the NAR Project Team approving the rules for electronic attendance. MOTION PASSED by the following votes per agency:**

**Aye: 3 -**

City of Aurora (Weidner)  
City of Naperville (Novack)  
Naperville Township (Bedford)

#### VI. ANNOUNCEMENTS/NAR PROJECT TEAM COMMENTS

Bedford inquired about the replacement of a NAR Project Team member with Lord requesting that the Project Team be provided with notification of the replacement and the new member's information.

Lord reported that the current letting date is September 20, 2024 and that all documents would need to be executed by July 29, 2024. The next meeting of the NAR Project Team was tentatively scheduled for Thursday, July 18, 2024 at 1:30 p.m. in the NEU at the Naperville Municipal Center. Lord advised they are hoping to include the following items on the July 18<sup>th</sup> agenda: all of the Wisconsin Central Ltd. agreements, the Design and Construction Agreement with Enbridge Energy, the ONEOK agreement, the ComEd Easement Agreement, and the ComEd Reimbursement Agreement.

Coordination of the agreement signatures was discussed with Lord reminding the Project Team that they have been delegated the authority to approve the agreements on each agency's behalf. The signatures of Naperville's City Manager and Aurora's Mayor were required on the ComEd North Aurora Road Tower Relocation Deposit Letter.

Novack requested that Calpin provide Bedford with an account of payments made to date and what is owed by the Township per the last IGA.

#### VII. ADJOURNMENT

**A motion to adjourn the meeting was made by Weidner and seconded by Hynes. The meeting adjourned at 2:24 p.m. MOTION PASSED UNANIMOUSLY**

Respectfully submitted by,  
Rebecca DeLarme, City of Naperville staff