

City of Lakewood

Memorandum

TO: Mayor and City Council

FROM: Rebecca P. Clark, Director, Community Planning & Development

DATE: October 29, 2008

SUBJECT: November 3, 2008, City Council Study Session
Proposed Program Management for Sound Wall Options

RECOMMENDATION

To direct staff to pursue the recommended Program Management for sound wall options as identified and described in Part II of this Memorandum.

SUMMARY

As part of the Regional Transportation District's (RTD) West Corridor light rail project, 6-foot sound walls will be constructed on identified segments of RTD's right-of-way to meet the Federal Transit Administration's requirements for sound mitigation. The sound walls are to be constructed only on certain residential segments identified by RTD between Sheridan Boulevard and Oak Street. The sound wall locations are shown on the attached maps (Attachment A).

The City of Lakewood and RTD have been working together to develop a program to provide reasonable alternatives and options for "affected" property owners to assist with mitigation of the impacts of the light rail line. An "affected" property owner is one who is entitled to a sound wall based on RTD's noise study and policy.

This Memorandum is divided into two parts. Part I summarizes background information pertaining to the sound walls including:

- The required federal mitigation for noise for federally funded transportation projects;
- RTD's policy for noise assessment and noise barriers (sound walls);

- RTD's criteria for sound wall locations; and
- RTD's policy for changes and alternatives to the sound walls.

Part II outlines a recommended Program Management for assisting affected property owners with noise mitigation. These options include increasing the sound wall height and providing alternative mitigation including landscaping, fencing, and/or windows.

PART I. BACKGROUND

Federal Requirements for Noise Mitigation

The Record of Decision (ROD) was signed on April 19, 2004. The ROD is issued by the Federal Transit Administration as the final approval of the Environmental Impact Statement and includes a "*Summary of LRT Alternative Environmental Impacts and Mitigation Measures.*" The mitigation measures for noise impacts are:

- Noise barriers (sound walls) will mitigate all severe noise impact areas.
- Noise barriers (sound walls) will mitigate noise impact areas along West 13th Avenue from Harlan to Oak.

The guiding document for noise and vibration impacts is *The Transit Noise and Vibration Impact Assessment*, revised May 2006. This manual is published by the Federal Transit Administration (FTA) and outlines the procedures for producing accurate impact assessments for proposed federally-funded mass transit projects. The FTA mandates that there must be mitigation for all *severe impacts* and for *moderate impacts when mitigation is considered reasonable*. The FTA defers to local transit districts to determine what the "reasonable" measures will be.

RTD's Noise Assessment

RTD's noise consultant performed a noise assessment in accordance with the methodology outlined in the *Transit Noise and Vibration Impact Assessment* and issued a *Noise & Vibration Analysis Technical Report* dated June 2007. The noise analysis conducted by RTD's noise consultants found 50 *severely* and 168 *moderately* impacted residential properties along the line.

The policy for noise mitigation measures for moderate impacts and wall location criteria for severe impacts is discussed below.

RTD's Noise Barrier (Sound Wall) Policy for Moderate Impacts

RTD's *Noise Mitigation Measures for Moderate Impacts* (Attachment B) identifies the process RTD will undertake to evaluate the need to mitigate for *moderate* noise impacts for the FasTracks program pursuant to FTA policy. This document sets out the criteria for evaluating the use of sound walls for those with moderate noise impacts:

1. Is the noise impact within the top 50% of the "moderate" impact range; and
2. Is the cost range for the sound wall within \$20,000 to \$35,000 (2002 dollars) per benefited residence; and

3. Is the minimum number of affected parcels at least 10; or the length of a noise barrier at least 800 feet.

Then:

4. Does the community (affected property owners) approve of implementation (75% of all affected parties).

RTD's Sound Wall Location Criteria for Severe Impacts

RTD developed the following criteria for the location of sound walls for severe impacts:

- All severe impacts receive a noise wall
- All walls in front of severe properties are extended a minimum of 100' on either side of the affected structure or to the nearest cross street.
- When the 100' extends in front of a residential property adjacent to the severe property, the wall will be continued to the property line of the adjacent property.

RTD's Sound Wall Locations

To determine the final location for the sound walls, RTD applied its policy for noise mitigation measures for moderate impacts and criteria location for severe impacts to those properties identified in the noise consultant's technical report. Based on the criteria, RTD identified 109 properties that will receive a 6-foot sound wall, for a total of 13,782 lineal feet of sound wall. (Attachment A). The sound walls are to be constructed adjacent to the rail tracks on RTD property (Attachment C).

FastTracks Noise Barrier Change Policy

The *FasTracks Noise Barrier Change Policy* ("opt out" policy) was developed to provide a procedure for affected parties to request changes to a proposed sound wall design on a FasTracks project (Attachment D). Any requested change requires 75% approval of those behind a sound wall segment. The *FasTracks Noise Barrier Change Policy* provides the following options to affected property owners:

- **Option 1: Keep the wall.** If 75% of affected property owners behind a wall segment do NOT sign RTD's "Noise Barrier Design Change Form" requesting an alternative to the proposed sound wall, a 6-foot sound wall will be built in the locations identified by RTD.
- **Option 2: Increase Noise Barrier Length or Height.** Property owners behind a wall segment may increase the sound wall height or length based on certain requirements. One requirement necessitates 75% of the affected property owners behind a wall segment agree to an increased wall height AND the property owners finance the increase in cost. The cost to increase the sound wall height is \$30.00 per sq. foot of wall.
- **Option 3: Decrease Height and/or Length of Noise Barrier or Eliminate Noise Barrier.** Based on certain requirements, including 75% agreement of

property owners behind a wall segment, a sound wall can be eliminated, or its height can be reduced from 6’.

- If a wall is eliminated, the affected property owner can:
 - Opt for a cash payment from RTD; there is no cost to the City for this option.
 - Opt for an alternative treatment including improved windows, trees, landscaping or fencing (in compliance with the City’s Zoning Ordinance). This “alternative treatment” option was developed by the City in partnership with RTD to provide additional choices for mitigation measures. This is being funded 1/3rd by the City and 2/3rd by RTD. The City’s portion is \$35 per lineal foot of property fronting the track.
- **Option 4: Enhance the Appearance of the Recommended Noise Barrier.** This option provides an affected property owner the ability to change construction materials, and architectural or decorative treatments to the sound wall. The costs are to be borne by the affected property owners requesting the change.

If an affected property owner executes the *Noise Barrier Change Form* (Attachment E) indicating he or she wants the wall removed, the property owner must then indicate if he or she wants the cash payment from RTD or the alternative treatment (Attachment F).

Community Outreach and Education

There has been extensive and varied outreach and education by the City of Lakewood and RTD over the last year to inform affected property owners of the “opt out” policy, available options, and the visual impact of sound walls.

City of Lakewood Outreach and Education

- The City held four (4) public meetings to show a computer simulation depicting the visual impacts of sound walls along the light rail line from Sheridan Boulevard to Oak Street. These meetings provided the opportunity for residents to gather more information on the sound walls and to discuss the alternatives (landscaping, windows, fencing) being provided. This computer simulation was placed on the City’s website for several months to allow ample opportunity for residents to view the simulation.
- The City held two (2) meetings to discuss in detail with affected property owners what landscaping options may be available to them. A landscape architect was present to meet individually with property owners to discuss alternatives appropriate to each property.
- Lakewood staff has met with several property owners individually to discuss alternative treatments and has spoken by phone with numerous affected property owners about their options.

RTD Outreach and Education

- On May 5, 2007, RTD held a noise demonstration at three locations along the light rail corridor. The purpose of this demonstration was to give the community an idea of the noises that might be associated with the light rail. More than 200 people attended the demonstration.
- RTD held three (3) public meetings with affected property owners to explain how sound wall locations were determined, to answer questions about the sound wall policy, and provide detailed information on the “opt out” policy.
- RTD has forwarded two letters (Attachment G) to affected property owners outlining the “opt out” options and alternatives.
- RTD constructed a mock 6-foot sound wall at 13th Ave. and Reed St. in September 2008 to demonstrate what the impact of a sound wall would be.

PART II. PRELIMINARY STAFF RECOMMENDATIONS FOR PROGRAM MANAGEMENT

RTD has indicated the deadline for a property owner to “opt out” of a sound wall is November 30, 2008.¹ However, RTD also has indicated this date is flexible and it may allow property owners to “opt out” at a later day. At the August 22, 2008, City Council budget study session, City Council agreed to fund sound wall mitigation options with the remainder of the court remodel budget. City Council requested staff to develop a Program Management Plan for implementing the available options.

Staff’s preliminary recommendations for program management for the options are discussed below.

1. Noise Change Barrier Option 1: Keep the Wall Segment.

Program Management: If 75% of the affected property owners behind one wall segment do not execute the “*Noise Change Barrier Form*,” the sound wall will be constructed.

Cost to City of Lakewood: None

2. Noise Change Barrier Option 2: Increase Noise Barrier Length or Height.²

Program Management Options:

Program 1: The City does not fund the cost for an increased sound wall. Under this option, the City is available to assist homeowners with developing a self-taxing district to assist with payment for his/her share.

¹ The “opt out” deadline for property owners at the approach walls to the Kipling and Wadsworth bridges was September 22, 2008.

² No requests have been received for an increase in noise barrier length.

Cost to the City of Lakewood: Staff time and expertise.

Program 2: The City pays for 50% of the increased wall height cost along the entire corridor with an anticipated total cost of \$1,006,440.

Maximum Cost to the City of Lakewood: \$503,220.

The following steps are recommended for managing this program:

- The City and RTD will determine which property owner(s) have opted for, and are eligible for, a 10-foot sound wall.
- The City and RTD will determine final costs.
- The City will work with RTD to determine when final payment for the increased cost is due. It is possible this may not be required until one or two years into the project construction. Funding for this may need to come from future budgets.
- The property owner(s) will pay his or her share (50%) of the increased cost directly to RTD. The City of Lakewood will pay its share (50%) of the increased cost directly to RTD after the property owner has made his or her payment.
- Property owner(s) and the City will enter into an agreement outlining each party's responsibilities and obligations.
- Property owner(s) will sign an agreement to hold Lakewood harmless for any future problems arising from a 10-foot sound wall.
- Pertinent documents will be recorded with the Clerk and Recorder.
- A tracking and filing system will be created to ensure all paperwork, notices, etc., are managed and maintained for the appropriate period of time.

3. Noise Change Barrier Option 3: Decrease Height and/or Length of Noise Barrier or Eliminate Noise Barrier.³

Program Management: This program will manage the “alternative treatment” option for those property owners who have chosen to eliminate the sound wall. The “alternative treatment” includes landscaping, fencing, and/or windows. It is recommended it be managed similar to current Economic Development grant programs.

Maximum Cost to the City of Lakewood: \$408,800.

This program will include the following steps:

³ No requests have been made for a decrease in noise barrier height or length.

- The City and RTD will determine what property owner(s) have opted for the alternative landscaping treatment.
- The City and RTD will determine the final cost(s).
- The City will develop a “community assistance plan” to effectively work with property owners.
- The property owner(s) will be notified in writing of the procedure for implementing the program and of his/her responsibilities.
- The City and property owner(s) will enter into an agreement outlining each party’s obligations and responsibilities.
- The property owner(s) will inform the City in writing of his/her specific plans. This can be implemented in the form of a City-generated check list enclosed with the notification letter.
- The property owner(s) will hire and manage his/her own contractor.
- The property owner(s) will be responsible for paying all contractors.
- The property owner(s) will notify the City when all work is completed to his/her satisfaction.
- The City will conduct a site visit to verify the improvements were constructed.
- The property owner(s) will supply all receipts for work/supplies to the City within 45 days of project completion.
- The City will forward copies of the receipts to RTD and will work with RTD to determine the amount to be reimbursed by each entity.
- The property owner(s) will execute an agreement to hold Lakewood harmless for any potential future issues that might arise due to sound arising from the light rail, or for any work completed by the contractor.
- The property owner(s) will be reimbursed up to the allowable amount.
- Pertinent documents will be recorded with the Clerk and Recorder.
- A tracking and filing system will be created to ensure all paperwork, notices, etc., are maintained for the appropriate period of time.

Option 4: Enhance the Appearance of the Recommended Noise Barrier. No requests have been received for this option.

Next Steps

Several homeowners are awaiting the final right-of-way drawings to determine if they will opt out as possible right-of-way acquisitions may influence their decisions. The RTD has not confirmed a date when these drawings will be made available. Because of the delay in the availability of the final right-of-way drawing, the City and RTD have agreed that the deadline for affected property owners to “opt” for the alternative treatment is January 30, 2009.

The City will continue to work closely with RTD and all affected property owners to ensure all paperwork is completed in a timely manner, and to help all property owners make informed decisions.