



## Legislation Details (With Text)

**File #:** ID 17-0770    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Agenda Ready  
**File created:** 11/28/2017    **In control:** City Council  
**On agenda:** 12/19/2017    **Final action:**  
**Title:** Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Barbara C. Dungee Located at 1301 Pisgah Church Road in Connection with the Pisgah Church Road Sidewalk Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Sitemap 1424 (1301 Pisgah Church Rd).pdf, 2. Vicinity 1424 (1301 Pisgah Church Rd).pdf, 3. 17-0770 Dungee-resolution.pdf

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Barbara C. Dungee Located at 1301 Pisgah Church Road in Connection with the Pisgah Church Road Sidewalk Project

Department: Legal

Council District: 2

Public Hearing: NA

Advertising Date/By: NA

Contact 1 and Phone: Ted Kallam, Engineering Manager, ext. 2883

Contact 2 and Phone: John P. Roseboro, Deputy City Attorney, ext. 2320

**PURPOSE:** The City seeks to acquire a Temporary Construction Easement (TCE) of 630 square feet of the property owned by Barbara C. Dungee located at 1301 Pisgah Church Road, designated as Parcel # 0086798 in the Morehead/ Gilmer Township for the Pisgah Church Road Sidewalk Project. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner(s).

**BACKGROUND:** PM attempted to negotiate a purchase within the total appraised value of \$484.00 for the property. An independent appraisal company, Foster Appraisal Services, Inc., was used to calculate the value of the property for NCDOT. The appraiser used generally accepted appraisal methods and calculated the value based upon the nature of the taking and the square footage taken. PM sent an initial written Offer to Purchase to the property owner(s) on March 15, 2017. PM spoke with the property owner on several occasions to discuss the design and offer. PM made a new offer, but it was not accepted. PM made every reasonable effort to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to

the owner giving him at least thirty (30) days' notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Pisgah Church Road Project is needed to provide pedestrians with a safe route along Pisgah Church Road, connecting existing sidewalks from North Church Street to Battleground Avenue. The acquisition necessary for this property is a Temporary Construction Easement (TCE) of 630 square feet for the property located at 1301 Pisgah Church Road.

The anticipated date for start of construction is June, 2018, with an anticipated completion date of June, 2020. The property is zoned R-3 (Residential Single-Family).

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the property to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the properties.

**BUDGET IMPACT:** The funding for this condemnation is budgeted in Account Number 401-4546-01.6012, Activity #A15138. The funding comes from the Street and Sidewalk Capital Fund. A minimum of \$484.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

**RECOMMENDATION / ACTION REQUESTED:** City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of Barbara C. Dungee in connection with the Pisgah Church Road Sidewalk Project.