Legislation Details (With Text)

File #:	ID 17-0784	**Version:**	1	**Name:**	
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File created:	12/4/2017			**In control:**	City Council
On agenda:	12/19/2017			**Final action:**	12/19/2017
Title:	Resolution Authorizing the City Attorney to Institute Proceedings to Acquire by Eminent Domain an Easement Running Over and Across Property Located at 112 E. Market Street, as more particularly described in the Guilford County Register of Deeds, Deed Book 669, Page 576, and Deed Book 1206, Pages 424 and 436, and Being Owned by N Club, LLC, Tubi Properties, LLC, and Peters Holdings, LLC in Connection with the City's Authority to Operate a Public Enterprise.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Sitemap 1409 (112 E Market St).pdf, 2. Vicinity 1409 (112 E Market St).pdf, 3. NC SoS information.pdf, 4. Comprehensive Annual Financial Report.pdf, 5. Adopted Budget 2017-18 Projected Budget 2018-19.pdf, 6. Traffic Schedule 9.pdf, 7. 17-0784 Resolution- Downtown Parking Deck.pdf				

Date	Ver.	Action By	Action	Result
12/19/2017	1	City Council	adopt	Pass

Resolution Authorizing the City Attorney to Institute Proceedings to Acquire by Eminent Domain an Easement Running Over and Across Property Located at 112 E. Market Street, as more particularly described in the Guilford County Register of Deeds, Deed Book 669, Page 576, and Deed Book 1206, Pages 424 and 436, and Being Owned by N Club, LLC, Tubi Properties, LLC, and Peters Holdings, LLC in Connection with the City's Authority to Operate a Public Enterprise.

Department: Legal
Council District: 3

Public Hearing: N/A
Advertising Date/By: N/A

Contact 1 and Phone: Tom Carruthers, City Attorney, ext 2320
Contact 2 and Phone: Adam Fischer, Transportation Director, ext 2861

PURPOSE: The City desires to acquire an easement running over and across City owned property located at 112 E. Market St. (designated as Parcel #0000004) in favor of the property owned by N Club, LLC, which is located at 117-119 S. Elm St. (designated as Parcel #0000013), property owned by Tubi Properties, LLC, which is located at 115 S. Elm St. (designated as Parcel #0000014), and Peters Holdings, LLC, which is located at 113 S. Elm St. (designated as Parcel #0000015), the same being more particularly described in the Guilford County Register of Deeds in Deed Book 669, Page 576, and Deed Book 1206, Pages 424 and 436. The City desires to acquire this easement to remove the impediments to title on said City property for use as an off-street parking facility. The City operates a Public Enterprise for Off-Street Parking in accordance with Articles 15 and 16 of Chapter 160A. Specifically, N.C.G.S. § 160A-301 and 302 give cities the authority to own, acquire, establish, regulate, operate, and control off-street parking lots, parking garages, and other facilities for parking motor vehicles, and to make a charge for the use of such facilities. N.C.G.S. § 160A-311 and 312,

which include "Off-street parking facilities and systems" within the definition of a Public Enterprise, authorizes cities to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of these Public Enterprises. Pursuant to Sec. 16-156 of the Greensboro Code of Ordinances, the City has operated off-street parking facilities for over 50 years. The City currently has nine off-street parking facilities as identified by Traffic Schedule No. 9. Said City property is also contemplated for redevelopment pursuant to the February One Downtown Development Project. The Legal Department and the Transportation Department request Council to authorize the initiation of condemnation proceedings, because it has been unable to negotiate a purchase price with the property owners.

BACKGROUND: The City is still negotiating with the relevant property owners, but, at present, the City has been unable to successfully negotiate for purchase of the easement from the property owners. An independent appraisal performed by Matthew Foster, A-8172 and Dick Foster A-1070, of Foster Appraisal Services, Inc. determined the value of the proposed taking (the easement) to be $55,500 with respect to each property owner for a total of $166,500. The appraisers were contracted to use generally accepted appraisal methods to calculate a value based upon the nature of the taking. As a result of unsuccessful negotiations, the Legal Department and Transportation Department recommend that the City Council adopt a resolution authorizing the City Attorney to institute eminent domain proceedings to acquire the required property. The City has authority to acquire this easement by eminent domain pursuant to Section 40A-3(b)(2) of the North Carolina General Statutes. Following City Council's approval, the Legal Department will send a letter to the owners informing them 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, may be held in an effort to resolve the matter with the property owners before trial. Additionally, the parties are free to continue negotiations through the date of trial.

Acquisition of the property owner's interest in the easement is necessary in order to remove impediments to title on said City property for its use as an off-street parking facility and for construction of any new off-street parking facility pursuant to the February One Downtown Development Project.

City staff further recommend that the City Council authorize payment of the estimated amount of the value of the property, in addition to any litigation costs and settlement agreements, to the Clerk of Superior Court for disbursement to the owners.

BUDGET IMPACT:

The funding for this condemnation is budgeted in Account Number 543-4530-01.6011. The funding comes from the Parking Facilities Operating Fund. A minimum of $166,500.00 will be expended to acquire this property, in addition to any litigation costs and settlement agreements.

RECOMMENDATION / ACTION REQUESTED:

Authorize the City Attorney to institute proceedings to acquire by eminent domain an easement running over and across property located at 112 E. Market Street, as more particularly described in the Guilford County Register of Deeds, Deed Book 669, Page 576, and Deed Book 1206, Pages 424 and 436, and being owned by N Club, LLC, Tubi Properties, LLC, and Peters Holdings, LLC in connection with the City's authority to operate a Public Enterprise.

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