



## Legislation Details (With Text)

**File #:** ID 21-0226    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Passed  
**File created:** 3/3/2021    **In control:** City Council  
**On agenda:** 3/16/2021    **Final action:** 3/16/2021  
**Title:** Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Z.A. Schwarz, LLC Located at 2900 E. Market Street in Connection with the Lowdermilk Street/ Sykes Avenue Realignment Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Sitemap 1601 (2900 E Market St).pdf, 2. Vicinity 1601 (2900 E Market St).pdf, 3. Schwarz,LLC-sec of state.pdf, 4. 21-0226 RES Z.A. Schwarz.pdf

Date	Ver.	Action By	Action	Result
3/16/2021	1	City Council	adopt	Pass

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Z.A. Schwarz, LLC Located at 2900 E. Market Street in Connection with the Lowdermilk Street/ Sykes Avenue Realignment Project

Council Priority: Maintain Infrastructure and Provide Sustainable Growth Opportunities

Department: Legal

Council District: 1

Public Hearing: NA

Advertising Date/By: NA

Contact 1 and Phone: Kenny McDowell, ext. 4578

Contact 2 and Phone: Alan Andrews, ext. 2320

**PURPOSE:** The City seeks to acquire a Proposed Margin Tract of 803 square feet of the property owned by Z.A. Schwarz, LLC located at 2900 E. Market Street, designated as Parcel No. 22060 in the Morehead/ Gilmer Township for the Lowdermilk Street/ Sykes Avenue Realignment 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.

**BACKGROUND:** PM attempted to negotiate a purchase within the total appraised value of \$18,400.00 for the property. An independent appraiser, D. Lynn Cable, Certified General Real Estate Appraiser, License No. A4361, calculated and submitted the value of the property for the City. 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 on December 17, 2019. PM made several attempts 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 them 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 Lowdermilk Street/ Sykes Avenue Realignment Project is needed to improve and promote a safer and more efficient rail and highway operation. The crossings at Pine Street and Lowdermilk has been identified for closure, and the realignment of Lowdermilk Street establishing a new crossing at Milepost H 2.66

The acquisition necessary for this property is a Proposed Margin Tract of 803 square feet located at 2900 E. Market Street.

The property is zoned COMM (Commercial).

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 property.

**BUDGET IMPACT:** The funding for this eminent domain action is budgeted in Account Number 471-4503-02.6012 Activity #A 18052. A minimum of \$18,400.00 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 Z.A. Schwarz, LLC in connection with the Lowdermilk Street/ Sykes Avenue Realignment Project.