



## Legislation Text

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**File #:** ID 15-0153, **Version:** 1

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Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property Owned by Florida Street Baptist Church, Inc. located at 1407 West Florida Street in Connection With the Lovett Street Sidewalk Improvement Project.

Department: Legal  
Council District: 1

Public Hearing: NA  
Advertising Date/By: NA

Contact 1 and Phone: Ted Partrick, Engineering Manager, ext 2308  
Contact 2 and Phone: John P. Roseboro, Assistant City Attorney, ext 2320

**PURPOSE:** The City seeks to acquire a Permanent Slope Easement (PSE) of 143 square feet and a Temporary Construction Easement (TCE) of 827 square feet of the property owned by Florida Street Baptist Church, Inc. located at 1407 W. Florida Street, designated as Tax Map # 84-04-01/Parcel # 0008734 in the Morehead/Gilmer Township for the Lovett Street Sidewalk Improvement Project. This project consists of installing 5,000 linear feet of sidewalk along both sides of Lovett Street. 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 \$330.00 for the property. The value of the property was calculated by an independent appraiser, Jeffrey A. McKee, who was contracted by the City to perform the appraisal. 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 a written Offer to Purchase to the property owner(s) on October 9, 2012. Furthermore, PM contacted the property owner numerous times from October 2012 to November 2014 to negotiate a purchase. PM made every reasonable effort to purchase the property within the appraised amount, but their efforts were not successful. In light of incurring the expenses of a condemnation to acquire the relatively small easements on this property, PM considered other alternatives to acquiring them, but these easements are required for the project. 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 property owner(s) at least 30 days before filing the condemnation action to advise the owner(s) of the City's intent to condemn the property if no agreement can be reached. 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(s) before trial. Additionally, the parties are free to continue negotiations through the date of trial.

Construction is estimated to start in January of 2016 and the estimated completion date is September 2016. The property is zoned LDO R-5 (formerly UDO RS-7, Residential Single Family, 7,000 sq. ft. minimum lot size).

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:** Funding comes from the 2008 Transportation Bond Funds and is available in the Sidewalk Construct. EL-5101DD, account number 401-4538-01.6012 Activity #09157. A minimum of \$330.00 for the property 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 Florida Street Baptist Church, Inc. at 1407 W. Florida Street in connection with the Lovett Street Sidewalk Improvement Project.