



Legislation Text

File #: ID 15-0328, **Version:** 1

Resolution Authorizing City Attorney to institute proceedings to condemn a portion of the property owned by The Courtyards Homeowners' Association, Lloyd Boyd, Kristina Marie Simmons, John J. Prenderville, Barbara C. Prenderville, William J. Gartman, Jillian Brady, Peter S. Williams, Sally Morris Randall, Gene K. Bates, Ronald L. Hargis, Jr., Gena D. Hargis, Derese Fulk, Gary Fulk, Todd G. Harmon, Christopher J. Evans, Harold Pearson, Laura Pearson, Robert M. Vansteen, May Lee Vansteen, Paul M. Odom, Paula Bryant Brown, Katheen D. Simpson, Joseph B. Stevenson, Jr., Melissa L. Jackson, Carl C. Bates, Helen B. Bates, Brian S. Petty, Jean E. Quinn, Charles Whittington, David Tyler Lehman, D. Carlyn Sims Ruppert, Glenn George Simpson, Lynn Denise Simpson, Mary B. Byrd, Dalton C. Cox, Brenda P. Peeden, Mary E. Owings, John T. O'Connor, Yitzhak Kagan, Venezia Kagan, Christine R. Issel, Katie Elizabeth King, Dana D. Didonato, Donald W. Doggett, Todd M. Brown, William Stephen Harbin (hereinafter, "Property Owners") located at 210 Open College Road in connection with the W. Market St./College Rd. Intersection & Sidewalk Project.

Department: Legal
Council District: 4

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 Proposed Margin Tract (PMT 0026E-A-1) of 199 square feet, a Proposed Margin Tract (PMT 0026E-A-2) of 133 square feet, a Proposed Margin Tract (PMT 0026E-A-3) of 13 square feet, a Proposed Permanent Slope Easement (PSE 00026E-B-1) of 262 square feet, a Proposed Permanent Slope Easement (PSE 00026E-B-2) of 35 square feet, a Proposed Permanent Drainage Easement (PDE 0026E-E) of 1,539 square feet and a Proposed Temporary Construction Easement (TCE) containing 265 square feet, of the property owned by the Property Owners located at 210 Open College Road designated as Tax Map #652-1-30 Parcel #0062664 in Morehead Township for the W. Market St/College Rd Intersection & 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 Owners.

BACKGROUND: PM attempted to negotiate a purchase within the total appraised value of \$6,539.00 for the property. The value of the property was calculated by an independent appraiser, Tonya L. Brady, MAI, SRA, of McNairy & Associates, that 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 Courtyards Homeowners' Association on March 25, 2014. Furthermore, PM communicated with The Courtyards Homeowners' Association and its attorney from April 2014 to January 2015 to negotiate a purchase. 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 30-day letter to the Property Owners requesting to purchase the property prior to litigation. 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 Owners before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The W. Market St./College Rd. Intersection & Sidewalk Project is one that was requested by the neighborhood for the children who walk to school. The neighborhood has no sidewalks on either side and the pedestrians, including children must walk in the road. In addition to the sidewalk, this project will widen W. Market St. and add a turn lane at the intersection of W. Market Street and College Rd. The acquisition necessary for this property is a Proposed Margin Tract (PMT 0026E-A-1) of 199 square feet, a Proposed Margin Tract (PMT 0026E-A-2) of 133 square feet, a Proposed Margin Tract (PMT 0026E-A-3) of 13 square feet, a Proposed Permanent Slope Easement (PSE 00026E-B-1) of 262 square feet, a Proposed Permanent Slope Easement (PSE 00026E-B-2) of 35 square feet, a Proposed Permanent Drainage Easement (PDE 0026E-E) of 1,539 square feet and a Proposed Temporary Construction Easement (TCE) containing 265 square feet, of the property owned by Property Owners located at 210 Open College Road. The anticipated date for start of construction is June, 2016, with an anticipated completion date of August, 2017. The property is zoned LDO RM-8 formerly UDO RM-8.

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the properties 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 401-4547-01.6012, Activity #A11168. The funding comes from the 2008 Transportation Bond Funds and is available in the Land Row MKT, College/Guilford College Intersection. A minimum of \$6,539.00 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 the Property Owners in connection with the W. Market St./College Rd. Intersection & Sidewalk Project.