



Legislation Text

File #: ID 15-0366, **Version:** 1

Resolution Authorizing City Attorney to institute proceedings to condemn a portion of the property owned by Ching, LLC located at 811 South Elm Street in connection with the Bragg Street at South Elm Street Intersection Storm Sewer Improvement Project.

Department: Legal
Council District: 2

Public Hearing: NA
Advertising Date/By: NA

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

PURPOSE: The City seeks to acquire a Proposed Permanent Drainage Easement (PDE) of 143 square feet, a Proposed Permanent Drainage Easement (PDE) of 2,307 square feet, a Proposed Permanent Drainage Easement (PDE) of 3,115 square feet, a Temporary Construction Easement (TCE) containing 5,008 square feet, and a proposed Temporary Construction Easement (TCE) containing 817 square feet of the property owned by Ching, LLC located at South Elm Street designated as Parcel #0001206 in the Morehead/Gilmer Township for the Bragg Street at South Elm Street Intersection Storm Sewer Improvement 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 \$6,380.50 for the property. The value of the property was calculated by an independent appraiser, Lynn B. Ritchy, GA of LR Appraisals 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 property owner(s) on January 6, 2015. Furthermore, PM spoke with the property owners from January 2015 to February 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 owner 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 owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Bragg Street South Elm Street Intersection Storm Sewer Improvement Project is needed to upgrade the storm sewer line to accommodate the additional runoff that will be generated by the proposed South Elm Street Redevelopment. The acquisition necessary for this property is a Proposed Permanent Drainage Easement (PDE) of 143 square feet, a Proposed Permanent Drainage Easement (PDE) of 2,307 square feet, a Proposed Permanent Drainage Easement (PDE) of 3,115 square feet, a proposed Temporary Construction Easement (TCE) containing 5,008 square feet, and a proposed Temporary Construction Easement (TCE) containing 817 square feet located at 811 South Elm Street. The anticipated date for start of construction is October, 2015, with an anticipated completion date of February, 2016. The property is zoned LDO LI (formerly UDO LI).

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 506-7014-06.6012 Activity # A15047. The funding comes from the Stormwater Capital Improvement Fund. A minimum of \$6,380.50 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 Ching, LLC in connection with the Bragg Street at South Elm Street Intersection Storm Sewer Improvement Project.