



Legislation Text

File #: ID 15-0604, **Version:** 1

Resolution Rescinding Resolution No. 0211-14 and Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Victor R. Sarvis Located at 5716 West Market Street in Connection with the West Market St/College Rd Intersection & Sidewalk Project

Department: Legal
Council District: 4

Public Hearing: NA
Advertising Date/By: NA

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PURPOSE: The Property Management section of the Engineering and Inspections Department received approval from City Council on August 19, 2014 to condemn the property that Victor R. Sarvis owns at the total appraised value of \$140,000.00, but that amount was for the entire property. A new appraisal for only a portion of the property performed in March 2015 concludes that the value of the portion of the property to be acquired is \$110,000.00. City Council approval is requested to rescind the authorization of the condemnation of the property for \$140,000.00 and proceed with the condemnation of the property for the revised appraised amount of \$110,000.00, saving the taxpayers \$30,000.00.

The City seeks to acquire a Proposed Margin Tract (PMT) of 2,138 square feet, Proposed Permanent Slope Easement (PSE) of 815 square feet and a proposed Temporary Construction Easement (TCE) containing 505 square feet, of the property owned by Victor R. Sarvis located at 5716 W. Market Street designated as Tax Map #1-30-894-N-43/Parcel #0075110 in the Morehead/Gilmer 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 owner(s).

BACKGROUND: On August 19, 2014, City Council approved the condemnation of a portion of the property located at 5716 W. Market Street that Victor R. Sarvis owns to be used for the W. Market St/College Rd Intersection & Sidewalk Project in the amount of \$140,000.00 (Resolution No. 0211-14).

Property Management attempted to negotiate a purchase within the total appraised value of the property. The owner rejected the \$140,000.00 offer and made no acceptable counter offer. We are amending the offer to the appraised value from the Before and After Appraisal report. An independent appraiser, Tonya L. Brady, MAI, SRA, of McNairy & Associates, prepared the appraisal report. 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 April 23, 2013. Furthermore, PM spoke with the property owner and its attorney from April 2013 to June 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. 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 W. Market St/College Rd Intersection & Sidewalk Project is one that the neighborhood requested 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) of 2,138 square feet, a Proposed Permanent Slope Easement (PSE) of 815 square feet and a proposed Temporary Construction Easement (TCE) containing 505 square feet for the property located at 5716 W. Market Street. The anticipated date for start of construction is August, 2016, with an anticipated completion date of August, 2017. The property is zoned 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: 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 \$110,000.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

RECOMMENDATION / ACTION REQUESTED: The Property Management section of the Engineering & Inspections Department recommends that City Council rescind Resolution No. 0211-14 and authorize the City Attorney to institute proceedings to condemn a portion of the property of Victor R. Sarvis in connection with the W. Market St/College Rd Intersection & Sidewalk Project for the revised appraised amount of \$110,000.00.