



## Legislation Text

---

**File #:** ID 18-0542, **Version:** 1

---

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of the Heirs of Cicero Smith Located at 8121 Old 421 Road in Connection with the Guilford/Randolph Mega-Site Water and Sewer Extension Project

Department: Legal  
Council District: N/A

Public Hearing: NA  
Advertising Date/By: NA

Contact 1 and Phone: Kenny McDowell, Engineering Director, ext. 4578  
Contact 2 and Phone: John Roseboro, Deputy City Attorney, ext. 2320

**PURPOSE:** The City seeks to acquire a Proposed Permanent Utility Easement (PUE) of 17,262 square feet of the property owned by the heirs of Cicero Smith, located at 8121 Old 421 Road, designated as Parcel No. 75568 in the Liberty Township for the Guilford/ Randolph Mega-Site Water and Sewer Extension 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 \$5,200.00 for the property. The appraised value was based on appraisals of like property, performed by an independent certified appraisal company, McNairy and Associates. The appraisers 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 the property on February 8, 2018. 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 him 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 Guilford/Randolph Mega-Site Water and Sewer Extension Project is to provide the water and the sewer infrastructure necessary to support the successful development of Project New World just outside of Liberty Township in Randolph County.

The acquisition necessary for this property is a proposed Permanent Utility Easement (PUE) of 17,262 square feet for the property located at 8121 Old 421 Road.

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 507-7013-01.6012 and Activity Number A16121. A minimum of \$5,200.00 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 heirs of Cicero Smith in connection with the Guilford/Randolph Mega-Site Water and Sewer Extension Project.