Legislation Text

File #: ID 20-0533, **Version:** 1

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of the Heirs of Jas J. Busick and Lula Busick Located at Lowdermilk Street Railway in Connection with the Lowdermilk/Sykes Realignment Project

Council Priority: Maintain Infrastructure and Provide Sustainable Growth Opportunities
Department: Legal
Council District: 1

Public Hearing: NA
Advertising Date/By: NA

Contact 1 and Phone: Kenney McDowell, Ext. 4578
Contact 2 and Phone: Alan Andrews, Ext. 2320

PURPOSE:
The City seeks to acquire a Proposed Margin Tract of 604 square feet and a proposed Permanent Utility Easement of the property owned by the heirs of Jas J. Busick and Lula Busick located at the Lowdermilk Street Railway, no designated parcel no. in the Morehead/ Gilmer Township for the Lowdermilk/ Sykes Realignment 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 $550.00 for the property. An independent appraiser, D. Lynn Cable, Certified General Real Estate Appraiser, A4361, calculated the value of the property for the City. The appraiser used generally accepted appraisal methods and calculated the value based upon the nature of the taking and the square footage taken. 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 them 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 Lowdermilk/ Sykes Realignment Project is needed to improve and promote safer and more efficient rail and highway operations along heavily used railroad corridors. The crossings at Pine Street and Lowdermilk have been identified for closure, and the realignment of Lowdermilk Street establishing a new crossing at Milepost H266.

The acquisition necessary for this property is a Proposed Margin Tract of 604 square feet and a Proposed Utility

Easement located at and adjacent to Lowdermilk Street Railway.
The anticipated date for start of construction is January 2021, with an anticipated completion date of June 30, 2021. The property is not zoned or platted.

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 471-4503-02.6012 Activity #A 18052. A minimum of $550.00 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 Jas J. Busick and Lula Busick in connection with the Lowdermilk/ Sykes Realignment Project.