



## Legislation Text

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**File #:** ID 20-0621, **Version:** 1

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Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Mary C. Horner & Christine E. Horner Located at 5108 Summit Avenue in Connection with the Summit Avenue Sewer Extension Project

Department: Legal  
Council District: 2

Public Hearing: NA  
Advertising Date/By: NA

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### **PURPOSE:**

The City seeks to acquire a proposed Permanent Utility Easement (PUE) of 3,838 square feet of the property owned by Mary C. Horner and Christine E. Horner located at 5108 Summit Avenue, designated as Parcel No. 126011 in the Monroe Township for the Summit Avenue 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 \$2,075.00 for the property. The property value was based upon tax value calculations submitted via a claim report. PM sent an initial written Offer to Purchase to the property owner on May 27, 2020. 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 Summit Avenue Sewer Extension Project is needed to extend and provide sewer service to residents currently on septic systems along Summit Avenue.

The acquisition necessary for this property is a proposed Permanent Utility Easement (PUE) of 3,838 square feet for the property located at 5108 Summit Avenue.

The anticipated date for start of construction is September 2020, and the completion date is yet to be determined. The property is zoned RS-30 (Residential Single-Family).

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 503-7029-02.6012 Activity #A 20050. A minimum of \$2,075.00 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 Mary C. Horner and Christine E. Horner in connection with the Summit Avenue Sewer Extension Project.