

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 14

DATE: July 7, 2009

STAFF: Dean Klingner
Helen Matson
Brian Pederson

SUBJECT

Second Reading of Ordinance No. 070, 2009, Authorizing Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Harmony Road and College Avenue Improvements Project.

RECOMMENDATION

Staff recommends adoption of this Ordinance on Second Reading.

EXECUTIVE SUMMARY

The College Avenue and Harmony Road Improvements Project requires acquisition of various real property interests from five different properties which are located at the College/Harmony and Harmony/Mason intersections. This project is partially federally funded through the Colorado Department of Transportation and, since the project will modify College Avenue, which is a state highway, all aspects of the project, including property acquisitions, must comply with procedures for federally funded projects. The acquisition phase of this project will conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 as Amended (Public Law 91-646). In accordance with these regulations, property owners must be informed about the possible use of eminent domain and their rights pursuant to Colorado Statute in the official Notice of Interest Letter. Authorization from City Council is needed prior to sending this information to property owners. This letter is the first official step in the acquisition phase and happens prior to the appraisals. This Ordinance, unanimously adopted on First Reading on June 2, 2009, authorizes the use of eminent domain for this project.

ATTACHMENTS

1. Copy of First Reading Agenda Item Summary - June 2, 2009.
(w/o original attachments)

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 23

DATE: June 2, 2009

 STAFF: Dean Klingner
 Helen Matson
 Brian Pederson

COPY

SUBJECT

First Reading of Ordinance No. 070, 2009, Authorizing Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Harmony Road and College Avenue Improvements Project.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

FINANCIAL IMPACT

The total project is anticipated to cost \$5,700,000, including design, acquisition and construction. Property acquisition costs will be covered by available project funds, whether or not eminent domain is required.

The project is funded by a combination of federal grant funds and Building on Basics 1/4-cent sales tax funds for Intersection Improvements.

EXECUTIVE SUMMARY

The intersection of College Avenue and Harmony Road is one of the busiest in the City of Fort Collins. Recent growth in the area and new construction along the Harmony Road corridor has caused additional congestion and traffic delays at the intersection. The improvement project requires acquisition of various real property interests from five different properties which are located at the College/Harmony and Harmony/Mason intersections. This project is partially federally funded through the Colorado Department of Transportation and, since the project will modify College Avenue, which is a State highway, all aspects of the project, including property acquisitions, must comply with procedures for federally funded projects. The acquisition phase of this project will conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 as Amended (Public Law 91-646). In accordance with these regulations, property owners must be informed about the possible use of eminent domain and their rights pursuant to Colorado Statute in the official Notice of Interest Letter. The authorization from City Council is needed prior to sending this information to property owners. This letter is the first official step in the acquisition phase and happens prior to the appraisals.

Staff has developed a recommended timeline which would allow construction to begin in February, 2010. Given the recommended construction schedule for the project and the fact that the acquisitions must be conducted under procedures for federally funded projects, timely acquisition of the property interests is necessary. Therefore, staff is requesting authorization to use eminent domain for all property acquisitions, if such action is necessary.

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BACKGROUND

The preliminary designs for the proposed road improvements have been prepared, along with a preliminary Right-of-Way Acquisition plan. Staff has sent the preliminary right-of-way plan and other project information to the affected property owners. Staff has also personally met with those property owners who have local representatives. The property owners have been notified that City staff would be requesting approval to use eminent domain to acquire necessary property interests, if needed. Additionally, City staff has mailed certified letters to all potentially affected property owners informing them of this request to Council. Staff has not received any objections to this proposed request from the owners during our meetings. Also, a public open house was held in the shopping center at the southwest corner of College and Harmony on April 29, 2009. Property owners and other local business owners in the area were invited to the open house.

Staff is optimistic that all property negotiations can be completed in good faith prior to the start of the Project. However, given the construction schedule for the project and federal requirements, timely acquisition of the property interests is necessary. Staff is requesting authorization of eminent domain for all property acquisitions if such action is necessary.

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ATTACHMENTS

1. Location Map

COPY

ORDINANCE NO. 070, 2009
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING ACQUISITION BY EMINENT DOMAIN PROCEEDINGS OF CERTAIN
LANDS NECESSARY TO CONSTRUCT PUBLIC IMPROVEMENTS IN CONNECTION
WITH THE HARMONY ROAD AND COLLEGE AVENUE IMPROVEMENTS PROJECT

WHEREAS, the Harmony Road and College Avenue Improvements Project (the "Project") is planned to be constructed in 2010; and

WHEREAS, the Project involves constructing additional turn lanes at the intersection of Harmony Road and College Avenue and Harmony Road and Mason Street; replacing pavement/concrete; improving pedestrian connections and bike lanes; modifying sidewalks, traffic signals, and utility connections; and associated public improvements; and

WHEREAS, the Project will improve the current intersections to provide the safe flow of traffic due to anticipated future development to the area; and

WHEREAS, it is necessary for the City to acquire certain property rights (the "Property") hereinafter described on Exhibits "A" through "E", attached hereto and incorporated herein by this reference (the "Exhibits"), for the purpose of constructing the Project; and

WHEREAS, the acquisition of the Property is desirable and necessary for the construction of the Project, is in the City's best interest and enhances public health, safety, and welfare; and

WHEREAS, the City will negotiate in good faith for the acquisition of the Property from the landowners; and

WHEREAS, the acquisition of the Property may, by law, be accomplished through eminent domain.

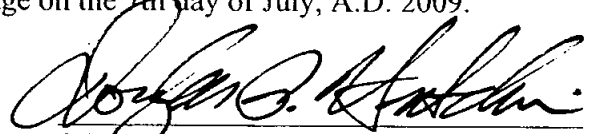
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby finds and determines that is necessary and in the public interest to acquire the Property for the purpose of the Project.

Section 2. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire the Property for the City by eminent domain.

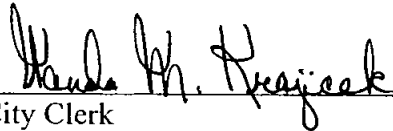
Section 3. The City Council finds, in the event that acquisition of the Property by eminent domain is commenced, that immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 2nd day of June, A.D. 2009, and to be presented for final passage on the 7th day of July, A.D. 2009.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 7th day of July, A.D. 2009.

Mayor

ATTEST:

City Clerk