

**AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 11

DATE: August 17, 2004

**STAFF: Ralph Campano
Bob Smith
Kathleen Reavis**

SUBJECT

Second Reading of Ordinance No. 124, 2004, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Improvements in Connection with the Manhattan Regional Detention Pond and the Mason Transportation Corridor Bike/Pedestrian Trail.

RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

EXECUTIVE SUMMARY

The Manhattan Regional Detention Pond Project will provide needed stormwater detention in a predominately mature and built-out residential and business area which is at risk in a 100 year flood. In addition, the Mason Transportation Corridor Bike/Pedestrian trail can be built concurrently with a berm for the Manhattan Regional Detention Pond. Although negotiations are continuing and expected to be successful, eminent domain proceedings must begin in order to assure all necessary property interests are obtained in a timely manner. Ordinance No. 124, 2004, was unanimously adopted on First Reading on July 20, 2004.

ORDINANCE NO. 124, 2004
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING ACQUISITION BY EMINENT DOMAIN PROCEEDINGS
OF CERTAIN LANDS NECESSARY FOR THE CONSTRUCTION OF
PUBLIC IMPROVEMENTS IN CONNECTION WITH THE MANHATTAN
REGIONAL DETENTION POND PROJECT AND A PORTION OF THE
MASON TRANSPORTATION CORRIDOR BIKE/PEDESTRIAN TRAIL

WHEREAS, the construction of the Manhattan Regional Detention Pond Project ("Project") and the Mason Transportation Corridor Bike/Pedestrian Trail Improvement Project ("Trail") are scheduled to start in 2004; and

WHEREAS, the Project includes the construction of a regional detention pond which will decrease flooding of the New Mercer Ditch and spilling of water over the Burlington Northern Railroad tracks and onto Mason Street; and

WHEREAS, a portion of the Trail alignment is located on the berm of the Manhattan Regional Detention Pond; and

WHEREAS, in order to most efficiently utilize resources and maximize cost savings, a berm required for the regional detention pond should be constructed prior to or concurrently with the construction of the Trail; and

WHEREAS, it is necessary for the City to acquire certain property rights hereinafter described for the purpose of constructing the Project and Trail; and

WHEREAS, the City will negotiate in good faith for the acquisition of said property rights from the owners thereof; and

WHEREAS, the acquisition of the above-described property rights is desirable and necessary for the construction of the Project and Trail, is in the City's best interest and enhances public safety and welfare; and

WHEREAS, the acquisition of such property rights may, by law, be accomplished through proceedings in 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 it is necessary in the public interest to acquire the property rights described on Exhibit "A", attached hereto and incorporated herein by this reference, for the purpose of constructing the Project and Trail.

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

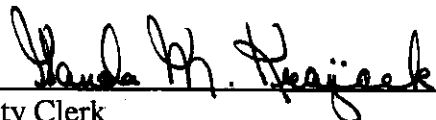
Section 3. The City Council hereby finds that, in the event that acquisition by condemnation of the property rights described in this Ordinance is commenced, immediate possession is necessary for the public safety and welfare.

Introduced, considered favorably on the first reading and ordered published this 20th day of July, A.D. 2004, and to be presented for final passage on the 17th day of August, A.D. 2004.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading this 17th day of August, A.D. 2004.

Mayor

ATTEST:

City Clerk

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 25

DATE: July 20, 2004

STAFF: Ralph Campano
Bob Smith
Kathleen Reavis

SUBJECT

First Reading of Ordinance No. 124, 2004, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Improvements in Connection with the Manhattan Regional Detention Pond and the Mason Transportation Corridor Bike/Pedestrian Trail.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

FINANCIAL IMPACT

Property acquisition funds are available as part of the Manhattan Regional Detention Pond Project.

EXECUTIVE SUMMARY

The Manhattan Regional Detention Pond Project will provide needed stormwater detention in a predominately mature and built-out residential and business area which is at risk in a 100 year flood. In addition, the Mason Transportation Corridor Bike/Pedestrian trail can be built concurrently with a berm for the Manhattan Regional Detention Pond. Although negotiations are continuing and expected to be successful, eminent domain proceedings must begin in order to assure all necessary property interests are obtained in a timely manner.

BACKGROUND

The Manhattan Regional Detention Pond Project ("Project") is in the Mail Creek Basin, and located east of Manhattan Avenue, between that street on the west and the New Mercer Ditch on the east, approximately a quarter mile south Horsetooth Road. In the event of a 100 year flood, the Project will restrict the overtopping of the New Mercer Ditch, reduce the amount of stormwater overtopping the Burlington Northern Railroad tracks to the east, and the flooding of Mason Street and other properties along the street right-of-way. The affected area consists of primarily built-out residential and commercial areas.

In October 2000, the City Council approved the overall Master Plan for the Mason Transportation Corridor ("MTC"), including the Bus Rapid Transit alternative and bicycle/pedestrian trail improvements. The MTC is a five and 1/2 mile north-south byway within the City of Fort Collins which extends from Cherry Street on the north to approximately 3/4 mile south of Harmony Road. Long term, the MTC is envisioned as a transportation corridor that will enhance opportunities for pedestrians, bicyclists, and transit riders. The MTC will offer choices for improved mobility and benefit all modes of transportation.

The Project includes the construction of a berm along the eastern edge of the detention pond which is in the same location as the alignment of the MTC Bike/Pedestrian Trail. Construction of the berm before or concurrently with the construction of the trail would be both cost effective and an efficient use of resources for both the detention pond and the trail project.

Staff has been in negotiations with the property owner since the Spring of 2003, and expects to reach a satisfactory and mutual agreement with the owner to secure the necessary property interests. However, it is necessary to initiate the eminent domain process, including passage of this ordinance authorizing acquisition by eminent domain, if a satisfactory agreement is not secured. Staff has advised the affected property owner that it is not unusual for the City to authorize the use of eminent domain at the same time as negotiations are taking place and that it is the City's intention to continue good faith negotiations for the property interests.

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