



City of Grand Island

Tuesday, October 8, 2013

Council Session

Item I-5

#2013-310 – Consideration of Authorizing the Legal Department to Acquire Certain Real Estate through Eminent Domain

Staff Contact: Robert Sivick

Council Agenda Memo

From: Robert J. Sivick, City Attorney

Meeting: October 8, 2013

Subject: Consideration of Authorizing the Legal Department to Acquire Certain Real Estate through Eminent Domain

Item #'s: I-5

Presenter(s): Robert J. Sivick, City Attorney

Background

Over the last few months the Legal and Public Works Departments have attempted to purchase approximately eighty acres of pasture land located north of Eagle Scout Lake along Highway 2. The Public Works Department wishes to convert this parcel into a detention cell to allow the City of Grand Island (City) to better control storm water runoff and drainage affecting Northwest Grand Island. City staff made reasonable offers to the listed owner in excess of the fair market value to no avail.

On September 10, 2013 the Grand Island City Council (Council) postponed action on this matter until September 24, 2013. On September 24 the Council postponed action until tonight. On October 1, 2013 City legal staff met with the property owner and his attorney to again attempt to negotiate a purchase price for the property in question. The property owner held fast in his demand for a price per acre far in excess of fair market value. Consequently, his demand was rejected by City legal staff.

Discussion

Since the proposed use of the land is for a public purpose, Chapter 76, Article 7 of the Nebraska Revised Statutes permits the City to acquire it through eminent domain. This would be accomplished through a Petition to Condemn Real Property filed in the Hall County Court.

The issue to be decided by the Council tonight is not to negotiate a purchase price for the real estate in question. Rather, the issue is limited to whether it will authorize the Legal Department to acquire the real estate through the City's power of eminent domain.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve.
2. Refer the issue to a Committee.
3. Postpone the issue to future date.
4. Take no action on the issue.

Recommendation

The City Administration recommends the Council approve Resolution 2013-309 to authorize the Legal Department to acquire certain real estate for public use through Eminent Domain.

Sample Motion

Move to approve Resolution 2013-309 authorizing the Legal Department to acquire certain real estate for public use through Eminent Domain.

R E S O L U T I O N 2013-310

WHEREAS, the City of Grand Island has sought to acquire real property consisting of the West ½ of the Southeast ¼ of the Lake Township located in Hall County, Nebraska for a public purpose; and

WHEREAS, City staff has made numerous market based offers for this real property but those offers have been rejected by the listed owner; and

WHEREAS, in light of the owner's rejection of the City's offers, the City must exercise its power of Eminent Domain to acquire the real property.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City Legal Department is hereby authorized to acquire the above described real estate through Eminent Domain by filing a Petition to Condemn Real Property in the Hall County Court.

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Adopted by the City Council of the City of Grand Island, Nebraska, October 8, 2013.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	▣ _____
October 4, 2013	▣ City Attorney