

## Legislation Details (With Text)

<b>File #:</b>	BILL NO. 17-210	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Passed
<b>File created:</b>	8/30/2017	<b>In control:</b>	City Council - Regular Session
<b>On agenda:</b>	9/21/2017	<b>Final action:</b>	10/5/2017
<b>Title:</b>	AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS. (Note: First read by City Council on September 21, 2017.)		
<b>Sponsors:</b>	Public Works		
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Ordinance		

Date	Ver.	Action By	Action	Result
10/5/2017	1	City Council - Regular Session	adopted and numbered	Pass
9/21/2017	1	City Council - Regular Session	advanced to second reading	Pass

AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

(Note: First read by City Council on September 21, 2017.)

### Issue/Request:

AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Key Issues:

- o This ordinance would provide for the City to use the power of eminent domain (condemnation) to acquire Right of Way, Temporary Construction Easements, and Permanent Easements through up to 11 parcels for roadway improvements located along Ward Road.
- o City Staff has tried to acquire the necessary easements through negotiation but has been unsuccessful.
- o Eminent domain is used only after negotiations based upon appraisal estimates of fair market value have failed to reach an agreement.

Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Background:

Improvements to Ward Road were approved by Lee's Summit voters as part of the 2007 Capital Sales Tax Renewal, hereinafter referred to as the "Project". This Project is primarily a complete streets project that includes sidewalk, shared-use path, street lighting, curb and gutter, enclosed storm drains, utility relocations, culvert extensions, roadway widening to accommodate one vehicular lane in each direction of travel with turning lanes, pavement marking, signing, and pavement improvements, hereinafter referred to as the "Improvements."

The original project scope extended from County Line Road south to Fenwick Road because it was the last cross street entirely within the corporate limits of Lee's Summit. The project was later directed to be extended south to Raintree Parkway, which requires building west portions of the road outside the City Limits in unincorporated areas of Cass County. The improvements outside the City's jurisdiction will be along Ward Road from approximately 1,150 feet south of Fenwick Drive to Raintree Parkway, 163rd Street, and then transition to match the existing road at Gore Road. The work will be fully funded through the Lee's Summit Capital Sales Tax Renewal.

Currently, the City and Cass County have an Intergovernmental Agreement to coordinate maintenance and capital improvements of the shared road. That agreement was approved by the City Council in 2009 by passage of Ordinance No. 6842 and a modified agreement was passed by City Council in July 2017 that would continue maintenance of the new road and include snow removal, pothole patching, and storm drainage maintenance.

City Staff conducted public meetings to share the preliminary plans and initiated communications directly with Cass

County Public Works and Cass County Commissioners to review the project scope. Cass County Commissioners and a few residents voiced specific objections to installing a sidewalk on the west side of the road and the City's proposal to annex the right of way.

Upon the request of Cass County, the City advised unincorporated Cass County residents, located along the west side of the road, there would be no annexation of private property. The residents would retain their status as residents in the unincorporated portions of Cass County. Both positive and negative comments were received regarding the proposed improvements and annexation.

Cass County decided to move forward with an intergovernmental agreement to continue the current roadway maintenance arrangement rather than allow annexation of the public right of way. Cass County also approved the agreement on the condition that the proposed sidewalk along the west limits of the project is not built. All other proposed design characteristics remain: 3-lane road with sidewalk along entire east side, 10-foot trail north of SW Fenwick Road.

Right of way acquisition within Cass County commenced in July 2017 following approval of the modified agreement by both Cass County and the City. Most of the right of way has been acquired along the Project area. However, negotiations with some property owners along the west side of the roadway have not been successful and this has delayed acquisition of temporary and permanent easements. While many of the owners have been agreeable, the remaining properties mentioned in Exhibit B of the proposed ordinance have delayed acquisition, and failure to acquire those easements will delay the project. In order to begin construction on schedule by spring 2018, acquisition of properties must be concluded prior to project bid. Final Plans are being designed and are expected to be approved with bidding specifications and prepared for bid by February 2018.

#### Impact/Analysis:

Failure to obtain the necessary rights of way and easements through eminent domain will delay the project or significantly increase the cost of easement acquisition.

#### Timeline:

Start: upon approval of Ordinance

Finish: Spring 2018

#### Other Information/Unique Characteristics:

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Presenter: George Binger, Deputy Director of Public Works / City Engineer

Staff Recommendation: Staff recommends approval of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Committee Recommendation: The September 19 Public Works Committee meeting was cancelled due to a lack of agenda items.