



Legislation Details (With Text)

File #: 2020-0107
Type: Resolution **Status:** Approved
File created: 4/3/2020 **In control:** City Council
On agenda: 4/23/2020 **Final action:** 4/23/2020
Title: Consider a resolution determining the necessity and authorizing the use of the City's power of eminent domain to acquire fee simple title to a 0.714-acre tract of land from property owned by Community Homeowners Association of Lake Forest, Inc., required for construction of proposed Gattis School Road improvements.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Resolution, 2. Exhibits A-B, 3. Maps

Date	Ver.	Action By	Action	Result
4/23/2020	1	City Council	approve	Pass

Consider a resolution determining the necessity and authorizing the use of the City's power of eminent domain to acquire fee simple title to a 0.714-acre tract of land from property owned by Community Homeowners Association of Lake Forest, Inc., required for construction of proposed Gattis School Road improvements.

The property being sought in this case is common area for the Lake Forest residential subdivision. The City's title company has confirmed that fee ownership of the property is vested in the Community Homeowners Association (CHA). The attorney representing the CHA has taken the position that the owners will not complete a voluntary sale of the property unless all of the lot owners in the subdivision are joined and made an offer of purchase as well. The City has taken the position that any use and enjoyment that the individual lot owners have in the common areas arising from the subdivision declarations does not create a property ownership interest which needs to be acquired in order to construct the proposed roadway project. (Parcel 12, Parts 1-2).

This resolution reserves the City's right to use eminent domain to acquire this tract should it become necessary.

EMINENT DOMAIN MOTION LANGUAGE REQUIREMENTS

Mayor and Council:

The Texas Government Code §2206.053 has very specific requirements for the motion to authorize eminent domain proceedings. In order to make certain that we comply with these statutory requirements, I recommend that the motion to adopt the resolution be read aloud as follows:

"I move that the City Council approve this resolution which authorizes the use of the power of eminent domain to acquire fee simple title to the following parcel of land for construction of proposed improvements to the Gattis School Road Project: 0.714 acre of land from property owned by Community Homeowners Association of Lake Forest, Inc., as described in Exhibit A of the resolution."