

MEMORANDUM

February 4, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator *ESS*
Paul P. Holzen, P.E., Staff Engineer II
Eric J. Gardner, P.E., Director of Engineering
David Parker, City Engineer

SUBJECT: Resolution 2010-16; A Resolution Authorizing Condemnation for the Acquisition of Property for the Boyd Mill Ave Improvements.

Purpose

The purpose of this memorandum is to recommend approval of Resolution 2010-16. This resolution will authorize condemnation for the acquisition of the remaining Right of Way and easements for the Boyd Mill Ave Project.

Background

On June 23, 2009 BOMA approved funding for property acquisition on the Boyd Mill Ave Project. Since then, staff has sent out formal offer letters, met with all of the property owners and purchased Right of Way and easements from a portion of the properties necessary for this project. Offer letters were sent out on Oct. 30, 2009, Dec. 14th 2009 and/or Jan 13, 2009 to all of the affected property owners. At this time 4 of the 15 property owners have not committed to settle for the offered amount.

In order to prevent the acquisition process from dragging out longer, staff has written Resolution 2010-16 to begin condemnation proceedings. Staff will continue to work with the remaining property owners and only use condemnation as a last resort.

Financial Impact

No additional financial impact at this time.

Recommendation

Approval of Resolution 2010-16 authorizing condemnation, if necessary, to finalize right of way and easement acquisition for the Boyd Mill Ave Project is recommended.

RESOLUTION 2010-16

A RESOLUTION AUTHORIZING CONDEMNATION FOR THE ACQUISITION OF PROPERTY FOR THE CONSTRUCTION OF BOYD MILL AVE IMPROVEMENTS

WHEREAS, the Board of Mayor and Aldermen has determined that the construction of certain road improvements within the City limits of Franklin is necessary, suitable and desirable for the public welfare; and

WHEREAS, these improvements are generally described as the construction of Boyd Mill Ave as shown on Proposed Layout Plans prepared by Wiser Company dated October 6, 2009; and

WHEREAS, it will be necessary in connection with the construction of the improvements for the City to obtain rights of way (property) from landowners; and

WHEREAS, the Board has previously approved a budget for the above-described road projects, which includes amounts allocated for right-of-way (property) acquisition; and

WHEREAS, the Boyd Mill Ave Improvements Project is ranked number twenty-four on the Board of Mayor and Alderman's most recent (12-22-2009) priority ranking; and

WHEREAS, the Board expressly finds that the City has the power of eminent domain to extend public roads, see T.C.A. §29-17-201 *et seq.* and to acquire easements and rights-of-way necessary for proper completion of the said improvements, and that the acquisition of such easements and/or rights-of-way is for a public purpose and for a public use, and that the acquisition of the private property hereinafter described is

necessary to accomplish said public use;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that the City Engineer and /or City Attorney, are authorized to obtain the necessary rights-of-way, permanent easements and/or temporary easements across the properties listed in Exhibit A hereto and may enter into agreements with property owners with respect to the compensation to be paid for the said rights of way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

The City Engineer and City Attorney are authorized to continue negotiating with any landowner for the acquisition of the rights-of-way and/or easements without resort to condemnation. However, if an impasse is reached with a property and condemnation is the only alternative, then the City Attorney is authorized to commence necessary condemnation proceedings. After condemnation proceedings have commenced, the City Engineer and /or City Attorney, are authorized to enter into settlement agreements with property owners with respect to the compensation to be paid for the said rights-of-way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

IT IS SO RESOLVED AND DONE on this the ___ day of _____, 2010.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____
ERIC F. STUCKEY
City Administrator/Recorder

By: _____
JOHN C. SCHROER
Mayor

Approved As To Form By Shauna Billingsley, Interim City Attorney