



MEMORANDUM

July 21, 2010

TO: Board of Mayor and Aldermen

FROM: Eric J. Gardner, P.E., Director of Engineering
Eric S. Stuckey, City Administrator *ES*
David Parker, City Engineer

SUBJECT: Resolution 2010-60; A Resolution Authorizing Condemnation for the Acquisition of Property for the Mack Hatcher Parkway Extension Improvements Project From Hillsboro Road to Highway 96 West.

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider Resolution 2010-60, which authorizes condemnation for the acquisition of the remaining Right of Way and easements for the Mack Hatcher Northwest Extension Project.

Background

On July 14, 2009, TDOT granted the City of Franklin management of the ROW phase for the Mack Hatcher Northwest Project. Funding is in place for property acquisition and is to be shared between the City and TDOT. On October 30, 2009, the design consultant, Wilbur Smith Associates, completed the ROW plans for the Mack Hatcher Northwest Project. A ROW public meeting was held on December 14, 2009. Since then, appraisals have begun and staff has sent out formal offer letters to some of the property owners, met with many of the property owners and purchased Right of Way and easements from a portion of the properties necessary for this project.

In order to prevent the acquisition process from dragging out and delaying construction, staff has written Resolution 2010-60 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

Staff recommends approval of Resolution 2010-60 authorizing condemnation, if necessary, to finalize right of way and easement acquisition for the Mack Hatcher Northwest Extension Project. Currently, property acquisition is scheduled to be completed in the spring of 2011. At this point, approval of this Resolution will only help staff to maintain this schedule in the event negotiations falter.

RESOLUTION 2010-60

A RESOLUTION AUTHORIZING CONDEMNATION FOR THE ACQUISITION OF PROPERTY FOR THE CONSTRUCTION OF MACK HATCHER PARKWAY EXTENSION IMPROVEMENTS FROM HILLSBORO ROAD TO HIGHWAY 96 WEST.

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 Mack Hatcher Parkway Improvements (SR 397) from Hillsboro Road (SR 106, U.S. 431) to New Highway 96 West (SR 96) as shown on Right-of-Way Plans prepared by Wilbur Smith Associates dated October 30, 2009; and

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

WHEREAS, the Attorney General for the State of Tennessee has granted the authority for Douglas Berry of Hubbard, Berry & Harris, PLLC, as the City's agent to obtain the rights-of-way and easements for the State of Tennessee; and

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

WHEREAS, the Mack Hatcher Parkway Improvement project has been ranked as the Board's top priority project of Franklin's listed Capital Investment Projects; and

WHEREAS, the Board expressly finds that the City has the power of eminent domain to extend public roads, see T.C.A. Title 29, Section 17 *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 all the properties requiring such acquisition for the construction of the Mack Hatcher Parkway Extension Improvements 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 through the City's agent Douglas Berry. 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 S. STUCKEY
City Administrator/Recorder

By: _____
JOHN C. SCHROER
Mayor

Approved As To Form By Kristen L. Corn, Staff Attorney