



NOTICE OF SPECIAL MEETING

For Abilene City Commission
4 p.m. Tuesday, September 3, 2018
Dwight D. Eisenhower Municipal Building
419 N. Broadway, Abilene, Kansas

AGENDA

The City Commission in accordance with City Code 1-105 may call a special meeting as necessary.

1. Consideration of Ordinance Number 19-3379 ordering the condemnation of certain interests in real estate commonly known as 805 N. Van Buren, Abilene, Kansas, and owned by Neil and Jill Phalen, for use by the City of Abilene, Kansas in construction of the 8th Street Improvement Project. ***(Note – Final ordinance with legal descriptions shall be furnished at or prior to meeting).***



ORDINANCE NO. 19-3379

AN ORDINANCE ORDERING THE CONDEMNATION OF CERTAIN INTERESTS IN REAL ESTATE FOR USE BY THE CITY OF ABILENE, KANSAS, IN CONSTRUCTION OF THE 8TH STREET IMPROVEMENT PROJECT PURSUANT TO CHAPTER 26 OF THE KANSAS STATUTES ANNOTATED, AND AMENDMENTS THERETO.

WHEREAS, the City of Abilene, Kansas (“City”) has by Resolution Number 081219-1 declared it necessary to appropriate private property in order to complete a road project, which is generally described as the extension of N.W. 8th Street from N. Washington Street to N. Van Buren Street, including associated drainage facilities and other public improvements (the “Project”); and

WHEREAS, in accordance with Resolution Number 081219-1, the City Engineer has caused a survey and legal description to be made of certain real estate to be acquired by the City for the purpose of constructing the Project, SO NOW, THEREFORE,

BE IT ORDAINED by the Governing Body of the City of Abilene, Kansas:

Section 1. That the Governing Body hereby reaffirms the prior orders and declarations of the necessity for acquisition of title to certain interests in real estate for the purpose of constructing the Project.

Section 2. That the interests in real estate required to be taken for such public use are described in surveys and legal descriptions prepared by the City Engineer and filed with the City Clerk pursuant to K.S.A 26-201.

Section 3. That the following described interests in real estate, together with all structures and improvements thereon (collectively, the “Real Estate”):

Right-of-Way:

[to be provided]

Temporary Construction Easement:

[to be provided]

are hereby ordered condemned for the purpose set forth in Section 1 above.

Section 4. That the City’s legal counsel is hereby directed to file a verified petition signed by the City Manager in the District Court of Dickinson County, Kansas, for the condemnation and acquisition of title to the Real Estate pursuant to Chapter 26 of the Kansas Statutes Annotated, and amendments thereto, and to do all that is necessary for the condemnation and acquisition of the Real Estate for the stated public purpose.

Section 5. For purposes of this ordinance and any corresponding petition, the terms “right-of-way” and “temporary construction easement” shall mean:

Right-of-way

“Right-of-way shall mean a perpetual form of fee title to real estate, subject only to reversion upon vacation of the public use, for the purposes of locating, constructing, excavating, and maintaining:

- a. Public means of transportation including roadways, streets, bridges, sidewalks, paths, crosswalks, and traffic control devices;
- b. Public drainage structures including, but not limited to, culverts, pipes, levees, and channels;
- c. Public landscaping and other aesthetic improvements; and
- d. Poles, wires, conduit, pipeline, and junction boxes for the purposes of conducting, transmitting, and distributing water, sewage, electricity, gas, and electronic communications by the City, its franchisees, and its licensees.

Temporary Construction Easement

“Temporary Construction Easement” shall mean, subject to existing easements of record, an easement commencing on the date of taking and continuing through December 31, 2020, in, through, over, and across the described real estate for all rights of ingress and egress of the City, its employees, contractors, and franchisees, for the purposes of constructing, grading, improving, reconstructing and inspecting the Project in the manner called for in the project plans (which may result in a permanent grade change); and continuing from January 1, 2020 through December 31, 2020, during which additional period of time the City’s employees or contractors shall have the right to perform maintenance, repair, or landscape work on the Project. After completion of construction, the City shall restore the area of the Temporary Construction Easement by seeding or paving as set out in the project plans and specifications.

Section 7. A certified copy of this ordinance signed by the City Clerk for the City of Abilene, Kansas, shall be recorded in the Office of the Register of Deeds, Dickinson County, Kansas.

Section 8. This ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 3rd day of September, 2019.

Dr. Timothy Shafer, Mayor

ATTEST:

Penny L. Soukup, CMC, City Clerk

The publication summary set forth above is certified this 3rd day of September, 2019.

Aaron O. Martin, City Attorney