

Expropriation of Properties

Required for 153 Avenue

Recommendation:

That Transportation and Public Works Committee recommend to City Council:

1. That Administration commence the expropriation of the lands, as outlined in Attachment 1 and legally described in Attachment 2 of the June 29, 2010, Asset Management and Public Works Department report 2010PW1153.
2. That Administration be authorized to enter into Section 30 Agreement(s) with the owner or owners of any lands described in Attachment 2 of the June 29, 2010, Asset Management and Public Works Department report 2010PW1153, where the owner is willing to consent to the expropriation of the land by the City.

Report Summary

City Council approval is required to commence the expropriation or to enter into Section 30 agreements of the lands described in Attachment 2.

Report

- At the May 27, 2009, City Council meeting, Finance and Treasury Department Report 2009FTB005, 2009 Supplemental Capital Budget Adjustment was approved.
- The subject lands are required for the construction of 153 Avenue between Fort Road and 34 Street in the spring of 2011. This is part of the Anthony Henday connector program.

- Discussions with the property owners have been underway for a number of months but, for various reasons, have not yet resulted in agreements being reached to purchase the required lands.
- Where negotiated purchases with the owners are not able to be reached, the Administration supports the expropriation of the required lands.
- The commencement of expropriation proceedings must be approved now to ensure timely ownership and vacant possession of the required lands to facilitate the construction schedule.
- Funding for the acquisition of lands required for this project will be through Capital Program 06-66-1612. The full costs of land acquisition for 153 Avenue are recoverable by the City through Arterial Roads for Development Bylaw 14380 from development in the Pilot Sound Basin.
- Administration will continue in its efforts to negotiate Agreements to acquire these lands and, only if negotiations are unsuccessful, would a file be advanced to the Land Compensation Board for a ruling.

Policy

The legislated authority for the action recommended in this report falls under the *Expropriation Act* of Alberta.

Focus Area

Transform Edmonton's Transportation Modes

Legal Implications

- Expropriation of the properties described in Attachment 2, must be carried out in compliance with the

procedures set out in the *Expropriation Act*.

- Affected owners have the right to object to the intended expropriation and have an Inquiry Officer appointed by the Province to conduct an inquiry into whether the intended expropriation is fair, sound and reasonably necessary in order to achieve the City's objectives.
- Section 30 of the *Expropriation Act* allows an owner, through a written agreement with the City, to consent to the expropriation (thereby avoiding an inquiry hearing) subject to the condition that compensation shall be determined by the Land Compensation Board if the parties cannot reach an agreement. A Section 30 Agreement enables the City to obtain a property at a date amenable to both parties. If an owner does not consent to the expropriation, the City is obliged to follow all of the steps prescribed in the *Expropriation Act* and the City typically obtains title to the property within 120 days of the commencement of the taking.
- The *Expropriation Act* also governs the City's proposed payment of compensation to an owner and empowers the Land Compensation Board to determine the amount of compensation payable to an owner if the owner and City cannot reach an agreement.

Justification of Recommendation

1. Commencement of expropriation proceedings is required in order to ensure ownership and vacant possession of the required lands in a timely manner to facilitate the construction of 153 Avenue between Fort Road and 34 Street.
2. Utilizing Section 30 Agreements, where the owners are willing, will enable the City to acquire ownership and vacant possession of lands within acceptable time limits while leaving the owners their rights to compensation under the *Expropriation Act*.

Attachments

1. Plan of Subject Lands
2. Legal Descriptions and Registered Interests for Properties

Others Reviewing this Report

- D. H. Edey, General Manager, Corporate Services Department
- R. Boutilier, General Manager, Transportation Department]