

Expropriation of Lands

Required for 137 Avenue

Recommendation:

That Transportation and Public Works Committee recommend to City Council:

1. That Administration commence the expropriation of the land, as outlined in Attachment 1 and legally described in Attachment 2 of the June 29, 2010, Asset Management and Public Works Department report 2010PW7169
2. That Administration enter into Section 30 Agreement(s) with the owner(s) of the land described in Attachment 2 of the June 29, 2010, Asset Management and Public Works Department report 2010PW7169, 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 a Section 30 agreement of the land described in Attachment 2.

Report

- The subject land is required for the widening of 137 Avenue west of 170 Street in the spring of 2011. This is part of the Anthony Henday connector program.
- Discussions with the property owner has been underway for a number of months but have not yet resulted in an agreement being reached to purchase the required land.
- Where a negotiated purchase with the owner is not able to be reached,

Administration supports the expropriation of the required land.

- The commencement of expropriation proceedings must be approved now to ensure timely ownership and vacant possession of the required land to facilitate the construction schedule.
- Funding for the acquisition of lands required for this project will be through Capital Program 06-66-1612.
- Administration will continue in its efforts to negotiate Agreements to acquire this land 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 property 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.

Others Reviewing this Report

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

Justification of Recommendation

1. Commencement of expropriation proceedings is required to ensure ownership and vacant possession of the required land in a timely manner to facilitate the widening of 137 Avenue west of 170 Street.
2. Utilizing Section 30 Agreements, where the owner is willing, will enable the City to acquire ownership and vacant possession of land within acceptable time limits while leaving the owner(s) their rights to compensation under the *Expropriation Act*.

Attachments

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