

Expropriation of Lands

Required for 17 Street Widening

Recommendation:

That Transportation and Public Works Committee recommend to City Council:

1. That Administration commence 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 2010PW5704, be approved.
2. That Administration 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 2010PW5704, 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.

Previous Council/Committee Action

At the December 2008 City Council Budget meeting, the following motion was passed:

That Capital Budget expenditures of \$5,303,785,000 be approved, which includes composite projects for 2009-2011 and single projects for 2009-2011 and beyond.

Report

- The subject lands are required for the widening of 17 Street north of Whitemud Drive in the spring of 2011.
- Discussions with the property owner have been underway for a number of months but have not yet resulted in an agreement being reached to purchase the required lands.
- Where a negotiated purchase with the owner is not able to be reached, 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 09-66-1480. The full costs of land acquisition for 17 Street are recoverable by the City through Arterial Roads for Development Bylaw 14380 from future land development in the area.
- 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 to ensure ownership and vacant possession of the required lands in a timely manner to facilitate the widening of 17 Street north of Whitemud Drive.
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