



City of San Antonio

Legislation Details (With Text)

File #: 17-4968

Type: Real Property Acquisition

In control: City Council A Session

On agenda: 9/7/2017

Title: An Ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Highway 90 Water Main Project located near Luckey Road extending west along the southern right-of-way of U.S. Highway 90 to just east of Highway 211, outside the city limits.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A-1 - Flores Pleasanton Project, 2. Exhibit A-2 - Flores Pleasanton Project pdf, 3. Exhibit A-3 - Hwy 90 Water Main Ext Project, 4. Exhibit A-4 - Hwy 90 Water Main Ext Project, 5. Exhibit A-5 - Hume Rd, 6. Exhibit A-6 - Hume Rd, 7. Ordinance 2017-09-07-0632

| Date | Ver. | Action By | Action | Result |
|----------|------|------------------------|-------------------|--------|
| 9/7/2017 | 1 | City Council A Session | Motion to Approve | Pass |

DEPARTMENT: Transportation & Capital Improvements

DEPARTMENT HEAD: Mike Frisbie, P.E.

COUNCIL DISTRICTS IMPACTED: Council District 3, and Outside City Limits (OCL)

SUBJECT:

Real Estate Acquisition on behalf of SAWS: Declaration of public necessity for acquisition of real properties to construct and/or replace water and sewer main pipeline.

SUMMARY:

Consideration of the following ordinances, on behalf of SAWS:

- A. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Hume Road Water Main Project located east of the intersection of the Union Pacific Railroad (UPRR) tracks and Hume Road to the west end of Hume Road and Pleasanton/Old Pleasanton Road intersection, outside the city limits.

- B. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Highway 90 Water Main Project located near Luckey Road extending west along the southern right-of-way of U.S. Highway 90 to just east of Highway 211, outside the city limits.
- C. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Flores Street and Pleasanton Road Project located at the SAWS sewer main pipeline starting within the right-of-way of Emilie Street, extending east to the right-of-way of Flores Street near S.W. Military, located in Council District 3.

These public use projects are necessary for the expansion and operation of the SAWS water and sanitary sewer infrastructure system. Pursuant to enacted Texas Senate Bill (SB 18), these items require City Council to initiate a motion authorizing the use of power of eminent domain, should it be needed.

BACKGROUND INFORMATION:

- A. Hume Road Water Main - This project was identified by SAWS Master Planning and Operations Support departments to provide sufficient capacity and redundancy, limit disruption of water service to area customers and eliminate the issuance of public boil notices due to water main breaks of undersized potable water mains. The project would construct and upsize existing water pipeline along Hume Road, east of the Union Pacific Railroad (UPRR) tracks and across Pleasanton/Old Pleasanton Road. This project requires the acquisition of two parcels being permanent easements containing approximately 0.361 acres in total. The design phase began in 2014, and construction is expected to begin in mid-2018 with completion in late-2018.
- B. Highway 90 Water Main - This project was identified in the Water Infrastructure Plan developed by the SAWS Master Planning Division. The project is required to extend and improve the supply and distribution within the potable water distribution system. The project will construct water main starting at Luckey Road, extending west along the southern right-of-way of U.S. Highway 90 to just east of Highway 211. . The project will require the acquisition of real property being approximately 16 permanent water easements, of which 12 have been acquired. The project requires the acquisition of four remaining parcels being permanent easements of approximately 0.904 acres in total. The design phase began in December, 2015, and construction is expected to begin in January, 2018 with completion in May, 2018.
- C. Flores Street and Pleasanton Road - This project was identified in the Consent Decree between the San Antonio Water System (SAWS) and the Environmental Protection Agency (EPA) entered into on July 23, 2013. This project will rehabilitate approximately sewer main and related appurtenances located within the right-of-way of Emilie Street, then extending east to the right-of-way of Flores Street near S.W. Military. This project requires the acquisition of approximately one parcel being an approximately 0.125 acre permanent easement. The design phase began in April, 2015, and construction is expected to begin in February, 2018 with completion in April, 2018.

SAWS intends to use every effort available to obtain the required permanent land rights for said pipelines through good faith negotiations, but may require eminent domain if the easement negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council

must declare the projects as public projects. The City of San Antonio has the authority and power to exercise eminent domain (condemning property) under Article I, Section 17 of the Texas Constitution and Texas Local Government Code.

These public use projects are necessary for improvement of sanitary water and sewer infrastructure systems. The property acquisitions will be completed by SAWS. Approval of these ordinances is a continuation of City Council policy to determine and declare certain projects necessary for public purpose and public use, and authorize the acquisition of private property by and through the SAWS Board of Trustees for the public project by negotiation or condemnation.

ISSUE:

The following ordinances, on behalf of SAWS, authorize the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declare the projects to be for public use and a public necessity. These projects are necessary for improvement of sanitary water and sewer infrastructure systems. The property acquisitions will be completed by SAWS. Approval of these ordinances is a continuation of City Council policy to determine and declare certain projects necessary for public purpose and public use, and authorize the acquisition of private property by and through the SAWS Board of Trustees for the public project by negotiation or condemnation.

- A. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Hume Road Water Main Project located east of the intersection of the Union Pacific Railroad (UPRR) tracks and Hume Road to the west end of Hume Road and Pleasanton/Old Pleasanton Road intersection, outside the city limits.
- B. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Highway 90 Water Main Project located near Luckey Road extending west along the southern right-of-way of U.S. Highway 90 to just east of Highway 211, outside the city limits.
- C. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Flores Street and Pleasanton Road Project located at the SAWS sewer main pipeline starting within the right-of-way of Emilie Street, extending east to the right-of-way of Flores Street near S.W. Military, located in Council District 3.

SAWS intends to use every effort available to obtain the required permanent land rights for said pipelines through good faith negotiations, but may require eminent domain if the easement negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the projects as public projects. The City of San Antonio has the authority and power to exercise eminent domain (condemning property) under Article I, Section 17 of the Texas Constitution and Texas Local Government Code.

ALTERNATIVES:

City Council could choose not to approve this request and require SAWS to redesign the project, increasing

costs and resulting in the delay of the projects and potentially subjecting SAWS to penalties under the Consent Decree with the EPA.

FISCAL IMPACT:

The passage of these ordinances will not have a financial impact on the City of San Antonio. Any condemnation costs including awards will be paid by or through SAWS.

- A. The Hume Road Water Main Replacement Project costs are funded from SAWS FY 2016 Capital Improvement Program, Water Delivery-Main Replacements Category.
- B. The Highway 90 Water Main Extension Project costs will be paid through a funding agreement executed between the developer and SAWS which requires the developer to cover all costs associated with the acquisition of easements.
- C. The Flores Street and Pleasanton Road Projects costs are funded from SAWS 2017 Capital Improvement Program, Wastewater Core Business, Main Replacement - Sewer Category, Job number 14-4798.

RECOMMENDATION:

The projects were reviewed and approved by the San Antonio Board of Trustees on:

- A. Hume Road, June 6, 2017.
- B. Highway 90, August 1, 2017.
- C. Flores & Pleasanton, August 1, 2017.

Staff and SAWS recommend approval of this request to authorize acquisition by negotiation or condemnation for the needed land interests for the outlined projects.