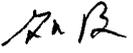


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MAR 13 2008

MEMO TO: Mayor and City Council

THRU: Mary Wade, City Attorney 

FROM: Glenn A. Brockman, Assistant City Attorney 

SUBJECT: Resolution No. 4165, determining that acquisition of a 33-foot wide strip of real property running east from Eagle Drive along the south side of Queen Creek Road for approximately 330 feet for public roadway and utility purposes is a matter of public necessity; ratifying action previously taken to purchase the real property; authorizing condemnation proceedings to obtain title to the real property and to obtain immediate possession thereof; and authorizing relocation assistance if any is required by law.

DATE: March 3, 2008

RECOMMENDATION: Staff recommends approval of Resolution No. 4165.

BACKGROUND/DISCUSSION: The property at issue is a 33'-wide strip of real property that was part of an area designated by the County for public roadway (as part of Queen Creek Road) in 1975. In 1991, the City of Chandler adopted and recorded Ordinance 2209, which annexed the subject property, along with other lands to the north. Several years ago, the City installed utility lines, primarily a sewer line running along the south side of Queen Creek Road, including the subject property, which is supposed to be the connection point for sewer service to a new office development nearing completion known as "Chandler Airpark Professional Village."

During the last several months, the City has been made aware that the owner of real property located at the southeast corner of Queen Creek Road and Eagle Drive has claimed to hold title to the subject property. The landowner has engaged in several incidents at the site designed to interfere with and impede the public use of the subject property for roadway, the City's access and use of its sewer line, and the installation of connections necessary for delivery of sewer service to the office development.

A title report does indicate that owner of the abutting property may hold fee title to the subject property, although the City may hold an easement interest for either or both public roadway and public utility purposes. Staff sought to resolve the matter by trying to acquire the strip of property subject to approval by the City Council. On or about January 8, 2008, a written offer and a copy of a supporting appraisal were delivered to the landowner, but no agreement has been reached.

Acquisition is necessary for both public roadway and utility purposes, but has become critical because the office development is nearing completion and the inability to complete the connections for delivery of sewer service may delay completion or may create some other substantial inconveniences to the developer.

FINANCIAL IMPLICATIONS: The estimated cost of the acquisition is \$76,000, plus any related court costs.

PROPOSED MOTION: Move to adopt Resolution No. 4165 to determine that acquisition of a 33-foot wide strip of real property running east from Eagle Drive along the south side of Queen Creek Road for approximately 330 feet for public roadway and utility purposes is a matter of public necessity; to ratify action previously taken to purchase the real property; to authorize condemnation proceedings to obtain title to the real property and to obtain immediate possession thereof; and to authorize relocation assistance if any is required by law.

GAB/

Attachments: Roadway Alignment Map/Aerial Photo
Resolution No. 4165

RESOLUTION NO. 4165

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, DETERMINING THAT ACQUISITION OF A 33-FOOT WIDE STRIP OF REAL PROPERTY RUNNING EAST FROM EAGLE DRIVE ALONG THE SOUTH SIDE OF QUEEN CREEK ROAD FOR APPROXIMATELY 330 FEET FOR PUBLIC ROADWAY AND UTILITY PURPOSES IS A MATTER OF PUBLIC NECESSITY; RATIFYING ACTION PREVIOUSLY TAKEN TO PURCHASE THE REAL PROPERTY; AUTHORIZING CONDEMNATION PROCEEDINGS TO OBTAIN TITLE TO THE REAL PROPERTY AND TO OBTAIN IMMEDIATE POSSESSION THEREOF; AND AUTHORIZING RELOCATION ASSISTANCE IF ANY IS REQUIRED BY LAW.

WHEREAS, in September, 1975, a 33-foot wide strip of real property, which is legally described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Subject Property"), was included as part of an area designated by the County for public roadway as part of Queen Creek Road and was removed from the County tax rolls; and

WHEREAS, in 1991, the City of Chandler annexed the Subject Property pursuant to Ordinance No. 2209, and, thereafter, constructed underground facilities and above-ground appurtenances for delivery of City-provided public utility services, including sewer service; and

WHEREAS, notwithstanding any of above, the public record indicates that the Subject Property is part of a larger parcel of real property owned by a private party located at the southeast corner of Queen Creek Road and Eagle Drive; and

WHEREAS, the Subject Property is needed in order to provide adequate vehicular traffic movement along Queen Creek Road and to allow the facilities within the Subject Property to be used to provide delivery of sewer service to nearby private property approved for and being constructed as an office development; and

WHEREAS, City staff did obtain an appraisal report for the Subject Property, and, in January, 2008, did deliver the report, together with a written offer to purchase the Subject Property at the value at which it appraised, to the party indicated in the public record as holding title to the Subject Property, but no agreement for the purchase thereof has been reached; and

WHEREAS, in order to expedite improved vehicular traffic movement along Queen Creek Road and to assure that City sewer service will be timely delivered to the office development and other private properties that may be served in the future by the facilities located within the Subject Property, the City of Chandler needs to acquire fee title to the Subject Property and immediate possession of the Subject Property as soon as possible; and

WHEREAS, location of a public roadway and public utility lines along Queen Creek Road within the area of the Subject Property will be most compatible with the greatest public good and the least private injury; and

WHEREAS, the City is authorized by law to acquire, whether by purchase, dedication or condemnation proceedings (eminent domain), such real property as is needed for public roadway and public utility purposes; and

WHEREAS, the City's acquisition of any such real property may result, from time to time, in the relocation of persons, businesses or personal property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. It is hereby determined that the City's acquisition of fee title in and to the Subject Property for public roadway and public utility purposes, and the securing of immediate possession thereof, is a matter of public necessity, is required for a necessary and public purpose, and is in the best interest of the citizens of the City of Chandler.

Section 2. The action previously taken by City staff to deliver to the record owner of the Subject Property a written purchase offer, together with an appraisal report in support in the amount of the purchase offer, is hereby ratified.

Section 3. The City Attorney of the City of Chandler is hereby authorized and directed to commence condemnation (eminent domain) proceedings to acquire the Subject Property, including any improvements thereon, and to secure immediate possession of such real property, for public roadway and public utility purposes, and is further directed to do and to perform all acts necessary in furtherance of the acquisition of title to and immediate possession of said real property.

Section 4. The City is authorized to provide such relocation assistance, including benefits, as may be required by law. The City's Real Estate Manager shall make the initial determination of any claim received for relocation benefits; any administrative appeal from such decision shall be considered and acted upon by the Chandler City Manager or the Manager's designee for such purpose, whose decision shall be final in accordance with applicable law.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4165 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2008, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



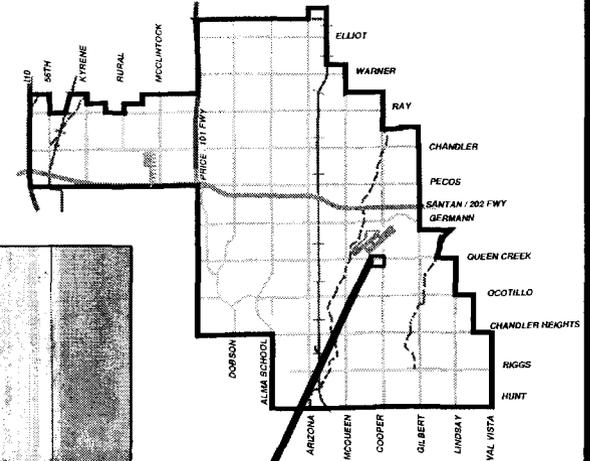
EXHIBIT "A"

The north 33.00 feet of the following described parcel:

The northeast quarter of the northeast quarter of the northwest quarter of the northeast quarter of Section 14, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.



QUEEN CREEK ROAD AND EAGLE DRIVE



RESOLUTION NO. 4165

 ROW STRIP

