



Legislation Details (With Text)

**File #:** 18-160      **Version:** 1      **Name:** Owen Drive Condemnation Discussion  
**Type:** Other Items of Business      **Status:** Agenda Ready  
**File created:** 4/10/2018      **In control:** City Council Work Session  
**On agenda:** 5/7/2018      **Final action:** 10/14/2025  
**Title:** Discussion on Condemnation of Right of Way Needed for Owen Drive Sidewalk Project  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Cook-OutOwenEsmtMap

Date	Ver.	Action By	Action	Result
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**TO:** Mayor and Members of City Council

**THRU:** Kristoff T. Bauer, Deputy City Manager

**FROM:** Kecia N. Parker, NCCP, Real Estate Manager

**DATE:** May 7, 2018

**RE:**  
Discussion on Condemnation of Right of Way Needed for Owen Drive Sidewalk Project

**COUNCIL DISTRICT(S):**  
2

**Relationship To Strategic Plan:**  
Desirable Place to Live, Work and Recreate

**Executive Summary:**  
The City of Fayetteville has designed a sidewalk project along Owen Drive from Eastern Boulevard to Walter Reed. The project is being funded through a grant from the North Carolina Department of Transportation. As a part of the City’s contribution, easements had to be procured. Currently there is one easement that has not been able to be acquired due to issues with the land owners financing company. The Federal and State requirements have been followed to date and the next step needed will be to file a condemnation proceeding to acquire the last easement needed. The owner was in favor of the easement but the City has not been able to reach an agreement with the lienholder who would need to release the small portion of the easement from their lien. If the City is unable to acquire this easement the project as it stands will not be able to be completed.

**Background:**

In April of 2017, Real Estate staff was given the easements to acquire for the Owen Drive Sidewalk project. Staff did all research and prepared the required documentation to receive approval from NCDOT to move forward with the acquisitions. In May of 2017 the Real Estate staff contacted the property owner of the Cook Out on Owen Drive. A 3' X 30' strip of sidewalk easement is needed for the project. This strip is needed to ensure the sidewalk is contiguous and meets the ADA requirements. The value of the easement is \$477.62 due to the small size. The owner of the property was not opposed to the easement, however, the property has a Negative Pledge Agreement on record with the bank that would require the bank to sign off on the easement. For the past year, staff has been diligently trying to get the bank officials to agree to release the easement from the Negative Pledge Agreement on file. There seems to be information that we are not privy to that has not allowed them to do this. At this point the project has to move forward or will have to be redesigned and new approvals acquired from NCDOT. Federal and State requirements list the next step as condemnation so that the project can continue moving forward.

**Issues/Analysis:**

The Owen Drive Sidewalk Project is funded and ready to be constructed. There is one easement that City staff has been unable to acquire due to a lienholder interest. This property would need to be condemned per the Federal and State requirements for the project to continue to move forward. If the condemnation is not approved, the project has to be redesigned and resubmitted for all approvals from NCDOT which will delay construction.

**Budget Impact:**

There will be no significant impact to the budget at this time.

**Options:**

- Direct staff to bring forth the needed Resolution and action to a regular council meeting for approval
- Direct staff to abandon project

**Recommended Action:**

Direct staff on how Council would like to proceed with the remaining easement needed for sidewalk construction project on Owen Drive.

**Attachments:**

Map