



## Legislation Text

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File #: 18-561, Version: 1

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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:** December 10, 2018

**RE:**  
**Authorization of Condemnation of Easements and Rights of Way on the Properties Needed for Mirror Lake Dam Restoration Project**

**COUNCIL DISTRICT(S):**

5

**Relationship To Strategic Plan:**

Desirable Place to Live, Work and Recreate

**Executive Summary:**

On April 24, 2017, Council appropriated \$2,286,810 of anticipated state and federal funding for the repair and reconstruction of Mirror Lake Dam. Seven easements (some temporary and some permanent) and right-of-way dedications are required to complete the project as designed. To date staff has acquired easements from three of the seven property owners. The contractor is ready to begin the project, but staff has easements/rights of way to acquire from four remaining property owners. Staff is requesting authority to begin the condemnation process in order to start the notice period and reduce any potential of project delay.

**Background:**

Mirror Lake Dam was severely damaged when the lake overtopped the roadway during Hurricane Matthew, beginning on October 4, 2016. The dam outlet pipes and a large portion of the roadway were washed away, and the roadway is currently closed to traffic.

On April 24, 2017, Council appropriated \$2,286,810 of anticipated state and federal funding for the repair and reconstruction of Mirror Lake Dam. On July 19, 2017, FEMA officially awarded Project Worksheet (PW) 01262 to provide \$1,529,530.19 for the project to return Mirror Lake Dam to its pre-disaster condition and also repair Mirror Lake Drive on top of the dam. In August of 2018, staff received the needed surveys to begin the acquisition process from the consultant. In late October and early November the appraisals required were completed. Staff has performed all of the title

research and has followed all of the requirements as set forth by the FEMA guidelines. To date staff has acquired easements from three of the seven property owners. The contractors are ready to begin the project, but staff has easements/rights of way to acquire from four remaining property owners. Staff is in the process of negotiating these acquisitions but due to time constraints would like to have condemnation authorized to allow for the notice times to begin so as not to further delay the project. Condemnation will not be initiated unless an agreement cannot be made.

In August of 2018, Real Estate staff was given the direction to acquire temporary and permanent easements and right of way from seven parcels for the restoration of Mirror Lake Dam. Due to the FEMA guidelines that must be followed negotiations are taking longer than anticipated. Staff is asking for authorization to move forward with condemnation approval on the remaining needed easements/rights of way to allow the process to be started so as to not cause a significant delay if agreements cannot be reached.

**Issues/Analysis:**

- Two of the remaining property owners have requested the City purchase their entire parcel. If the City decides to do this, then new appraisals will have to be initiated consistent with FEMA guidelines.
- One property owner has asked for 3 times the appraisal amount and justification must be provided or a second appraisal performed since there is a dispute in value which could delay easement acquisition.
- One property owner is an Association which is not planning to meet until January.
- Right of Entries have been requested from the property owners to move the project forward during negotiations.

**Budget Impact:**

The budget has been allocated for this project through FEMA reimbursement.

**Options:**

- Approve the Resolution for the Authorization of Condemnation of Easements and Rights of Way on the Properties Needed for Mirror Lake Dam Restoration Project
- Reject the Resolution for the Authorization of Condemnation of Easements and Rights of Way on the Properties Needed for Mirror Lake Dam Restoration Project

**Recommended Action:**

Staff recommends approval of the Resolution for the Authorization of Condemnation of Easements and Rights of Way on the Properties Needed for Mirror Lake Dam Restoration Project.

**Attachments:**

Maps

Resolution