

No. 12-19-OR

AN ORDINANCE

An Ordinance authorizing the County of Allegheny to acquire by condemnation certain temporary construction easement areas from one parcel required to reconstruct Thompson Run East Branch Bridge No. 2 carrying Jones Avenue over Thompson Run in the municipalities of Wilkins Township and Turtle Creek Borough, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

Whereas, Thompson Run, East Branch, Bridge No. 2, which carries Jones Avenue over Thompson Run, East Branch, in the municipalities of Wilkins Township and Turtle Creek Borough, has come into a state of disrepair and is now structurally deficient. Sound engineering practice dictates that replacement of the bridge is required to insure continued public use and safety; and

Whereas, the Department of Public Works has diligently attempted to amicably acquire the property of the party hereinafter identified for reconstruction of the bridge and said party has failed to respond to the County's offer.

Whereas, due to the urgent need to replace the failing structure to protect the public and secure funding, it is necessary to authorize the acquisition of the required property through eminent domain following exhaustion of good faith efforts to amicably acquire said property; and

Whereas, the County Council of Allegheny County deems it advisable to acquire certain easement area, within Wilkins Township, County of Allegheny and Commonwealth of Pennsylvania for the purpose of reconstructing the Thompson Run, East Branch, Bridge No. 2, Project No. TE02-0310, (the "Project"); and being:

Parcel 4: 296 square feet of temporary construction easement required from a parcel of land of Nino R. Barcellino and Ethel L. Barcellino, his wife, and Richard L. Barcellino, as Tenants by the Entireties as to the married parties and as Joint Tenants with Right of Survivorship as between the marital entity and the individual, within the Township of Wilkins.

Whereas, the Right-of-Way Drawings for said Project were recorded February 5, 2019 in the Allegheny County Department of Real Estate in Plans-Miscellaneous Book 178, Page 25; and

Whereas, the County Executive authorized the Law Department to clear the right of way for said Project by his Executive Action approved January 26, 2019, Executive Action No. 5173-19; and

Whereas, said Project constitutes a valid public purpose serving the interests of the residents of the County of Allegheny; and

Whereas, the County Council of Allegheny County deems it advisable to acquire by condemnation, certain land hereinafter described, as necessary, for the Project.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Authorization to Acquire Parcels.

That Council deems it advisable and necessary to authorize the Law Department, in conjunction with the Department of Public Works, to obtain appraisals and title reports, to negotiate and acquire the parcels, to prepare the necessary petitions, resolutions and all other documents, including, but not limited to Declarations of Taking, Petitions to Deposit Estimated Just Compensation into Court and Petitions for Appointment of Viewers, all or some of which may be required for the Project.

SECTION 3. Authorization to Acquire Property by Condemnation.

That Council deems it advisable and necessary to acquire required temporary construction easements and take under the power of eminent domain part of the property of the following persons or corporations and to acquire title thereto an easement for the temporary construction easements, as necessary for the Project:

PARCEL NO.	RECORD OWNERS	TAX PARCEL BLOCK & LOT NO.
4	Nino R. Barcellino and Ethel L. Barcellino, his wife, and Richard L. Barcellino, as Tenants by the Entireties as to the married parties and as Joint Tenants with Right of Survivorship as between the marital entity and the individual	454-R-2 454-R-4

Said property is identified on a property drawing marked "Exhibit A", attached hereto and made part hereof. Entry upon, appropriation and the taking thereof is hereby authorized and directed, for the purpose of the Project.

SECTION 4. Notice to Interested Parties.

That Council directs the Department of Public Works in conjunction with the Law Department to notify interested parties as required by law of the adoption of this Ordinance with respect to property taken under the power of eminent domain.

SECTION 5. Application to Court.


That Council directs the Law Department to make immediate application to the Court of Common Pleas of Allegheny County for the purpose of having the value of said property legally ascertained.

SECTION 6. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.


SECTION 7. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

Enacted in Council, this 7th day of May, 2019

Council Agenda No. 11045-19



John DeFazio
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office May 8, 2019

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Sonya Dietz
Executive's Secretary

SUMMARY HISTORY OF PROPERTY OWNER CONTACTS FOR ORDINANCE TO ACQUIRE PROPERTY BY CONDEMNATION

The Public Works Department seeks authorization to acquire property by condemnation to reconstruct Thompson Run East Branch Bridge No. 2. A temporary construction easement is necessary to provide access to the contractor to construct the project from the following landowners:

Nino R. Barcellino and Ethel L. Barcellino, his wife, and Richard L. Barcellino, as Tenants by the Entireties as to the married parties and as Joint Tenants with Right of Survivorship as between the marital entity and the individual
(Parcel 4)

As a phone number for the claimant was unavailable, the “Advanced Notice of Acquisition” along with the required attachments was mailed to the claimant on May 29, 2018. However, the mailer was returned as undeliverable. A second attempt to mail the Notice was made on June 11, 2018 and sent to an alternate address for the claimant. A call was received from a Mr. Barcellino claiming to be the son of Nino and Ethel Barcellino on June 18, 2018. He stated that both of his parents are now deceased, and that the property had been foreclosed upon by the bank. He ended the call before a phone number could be obtained. Upon further investigation, obituaries for both Nino and Ethel were obtained, however, no contact information could be found for the son. A title search was obtained as of November 16, 2018, which shows no change in ownership to the subject property. The “Offer to Purchase and Summary of Just Compensation” was therefore sent to the same address as previously used. Despite numerous attempts, the son has been unresponsive and unlocatable.

We seek authorization by County Council, as soon as possible, as required by the Administrative Code, so the County may file a Declaration of Taking to gain possession of the property and either pay estimated just compensation to the owner’s heirs, successors or assigns or deposit estimated just compensation with the Department of Court Records.

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: April 18, 2019

RE: Proposed Ordinance

Attached is an Ordinance authorizing the County of Allegheny to acquire by condemnation certain temporary construction easement areas from one parcel required to reconstruct Thompson Run East Branch Bridge No. 2 carrying Jones Avenue over Thompson Run in the municipalities of Wilkins Township and Turtle Creek Borough, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

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ALCO COUNCIL RECEIVED