

No. 07-19-OR

AN ORDINANCE

An Ordinance authorizing the County of Allegheny to acquire by condemnation certain right-of-way and easement areas from a parcel required to stabilize the slope supporting Elizabeth Street southeast of Scott Drive in Dravosburg Borough, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

Whereas, on or before February 16, 2018, a landslide occurred on Elizabeth Street at a location southeast of Scott Drive in Dravosburg Borough that reduced the width of the roadway to one lane; and,

Whereas, the Allegheny County Council deems it advisable to acquire certain right-of-way and easement areas, being: 4,164 square feet of right-of-way and 3,692 square feet of temporary construction easement, required from a parcel of land of Herbert Palkovitz, Cheryl Lynn Hepfer and Wayne Allen Palkovitz, within Dravosburg Borough, County of Allegheny and Commonwealth of Pennsylvania (the "Parcel") for the purpose of stabilizing the slope supporting Elizabeth Street south of Scott Drive, (the "Project"); and,

Whereas, the Right-of-Way Drawings for said Project were recorded September 24, 2018 in the Allegheny County Department of Real Estate in Plans-Miscellaneous Volume 176, Page 75; and,

Whereas, Herbert Palkovitz, Cheryl Lynn Hepfer and Wayne Allen Palkovitz acquired the Parcel by their deed dated June 30, 1972 and recorded December 6, 1972 in Allegheny County Real Estate Department in Deed Book Volume 5162, Page 577; and,

Whereas, unsatisfied real estate tax liens for the Parcel were found going back to 1995; and,

Whereas, after conducting a diligent search, none of the owners can be located; and,

Whereas, the County Manager authorized the Law Department to clear the right of way for said Project by his Executive Action approved September 23, 2018, Executive Action No. 6733-18; and,

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

Whereas, the Allegheny County Council, is satisfied that all means have been exhausted to amicably acquire the property, 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 right-of-way and 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 in fee simple for right-of-way and an easement for the temporary construction easements, as necessary for the Project:

PARCEL NO.	RECORD OWNERS	TAX PARCEL BLOCK & LOT NO.
1	Herbert Palkovitz, Cheryl Lynn Hepfer and Wayne Allen Palkovitz (right-of-way and temporary construction easement)	384-C-30

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 19th day of February, 2019

Council Agenda No. 10958-19


John DeFazio
President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office February 21, 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
TO STABILIZE SLOPE SUPPORTING ELIZABETH STREET
DRAVOSBURG BOROUGH

January 17, 2019

The Public Works Department seeks authorization to acquire property by condemnation required to stabilize slope supporting Elizabeth Street. Right-of-way and temporary easements are required to construct the project. The reputed parties having an interest in the subject property are:

Herbert Palkovitz, Cheryl Lynn Hepfer and Wayne Allen Palkovitz, Parcel 1

The parcel was acquired by a deed dated June 30, 1972. The property owner cannot be located. Real estate taxes remain unpaid going back to at least 1995. As required by the Administrative Code we seek authorization from County Council to initiate condemnation proceedings as soon as possible, including the filing of a Declaration of Taking and deposit of estimated just compensation with the Department of Court Records to secure possession of the property for the Project.

LEGEND

- OPEN-HEAD ELECTRIC LINE
- UNDERGROUND STORM SEWER
- UTILITY POLE
- UTILITY POLE (DUPLEX LIGHT)
- CENTRAL POINT LOCATION
- PROPERTY LINE
- LEGAL RIGHT-OF-WAY (EXISTING)
- REQUIRED RIGHT-OF-WAY
- TEMPORARY CONSTRUCTION EASEMENT
- PARCEL NUMBER - AFFECTED
- PARCEL NUMBER - NOT AFFECTED

EXHIBIT A

RIGHT-OF-WAY CLAIM INFORMATION COUNTY OF ALLEGHENY

COUNTY ROAD 5103
PART-LOT NO. 01
BLOCK & LOT NO. 384-C-30
PROPERTY OWNER(S) HIRSHFELD, PAUL & JANE
GRANTOR(S) HIRSHFELD, PAUL & JANE

DEED BOOK	PAGE(S)	DATE	LEGAL RIGHT-OF-WAY	CHANNEL EASEMENT	DRAINAGE EASEMENT	TEMP. CONST. EASE	VERIFICATION DATE	DATE
60984	5162	6/30/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72
577	577	12/6/1972	4.164	3.692	4.164	3.692	6/1/72	6/1/72

RECORDED IN THE OFFICE FOR THE
DEPARTMENT OF REAL ESTATE IN
ALLEGHENY COUNTY, PA
IN PLANS-MISC. BOOK PAGE
WITNESS MY HAND AND SEAL OF OFFICE
DATE
MANAGER

IN WITNESS WHEREOF I HERETO SET MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

RIGHT-OF-WAY ACQUIRED FOR THE BENEFIT OF ALLEGHENY COUNTY FOR LOCAL HIGHWAY PURPOSES. THE SHAL, YES" IN ALLEGHENY COUNTY
UNDERGROUND STORM SEWER
UTILITY POLE
UTILITY POLE (DUPLEX LIGHT)
CENTRAL POINT LOCATION
PROPERTY LINE
LEGAL RIGHT-OF-WAY (EXISTING)
REQUIRED RIGHT-OF-WAY
TEMPORARY CONSTRUCTION EASEMENT
PARCEL NUMBER - AFFECTED
PARCEL NUMBER - NOT AFFECTED

TEMPORARY CONSTRUCTION EASEMENT
DURING CONSTRUCTION OF THE PROJECT, THE EASEMENT IS REQUIRED ONLY UNTIL WORK
ANY EASEMENT IN THE LAND IS COMPLETED. UNLESS OTHERWISE INDICATED, THE
COUNTY OF THE TEMPORARY CONSTRUCTION EASEMENT BOUNDARY ARE BASED OFF THE CONSTRUCTION AND SURVEY BASELINE.
PRIVATE PROPERTY LINES ARE PLOTTED FROM DEED OF RECORD. RECORDED SUBDIVISION OR LOT PLANS. PRIVATE PROPERTY LINES WERE NOT
INDICATED BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT. THIS PLAN IS NOT TO BE SUBSTITUTED FOR A BOUNDARY
SURVEY.

NOTES:
1. THIS PLAN IS BASED ON A SURVEY THAT WAS COMPLETED BY KAG ENGINEERING, INC. IN 1980.
2. THE LEGAL 7'-0" RIGHT-OF-WAY WITHIN THE PROJECT LIMITS IS 17' WIDE ON THE LEFT OF
THE CENTERLINE AND 47' WIDE ON THE RIGHT OF THE CENTERLINE BASED ON
DRAWING NO. 103333 PUBLIC UTILITIES CONSTRUCTION PLAN OF PROPOSED DRAINAGE
SUPPLEMENTAL ORDER DATED OCTOBER 24, 1949, PARAGRAPH 39.
3. SURVEY AND CONSTRUCTION BASELINE IS LOCATED ALONG THE CENTERLINE OF THE
STATE HIGHWAY AND WAS ASSIGNED STATION VALUES. TEMPORARY CONSTRUCTION
EASEMENT BOUNDARY LINES ARE BASED ON THE PROPOSED CHANGES TO THE HIGHWAY IN
1945 THAT WERE NEVER IMPLEMENTED.

APPROVED
BY THE COUNTY EXECUTIVE THROUGH THE MANAGER OF
ALLEGHENY COUNTY. THIS PROJECT WAS AUTHORIZED
FOR PROPERTY ACQUISITION BY THE ALLEGHENY
COUNTY MANAGER
WILLIAM D. HICKIN, ALLEGHENY COUNTY MANAGER DATE
ASUSSE, INC.

RECOMMENDED:
DATE
PROJECT MANAGER
DATE
DEPUTY DIRECTOR/ENGINEERING
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RECOMMENDED:
DATE

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County of Allegheny

Pittsburgh, Pennsylvania
Department of Public Works

RIGHT-OF-WAY ACQUISITION
AND
TEMPORARY CONSTRUCTION
EASEMENT DRAWING
ELIZABETH STREET LANDSLIDE

ELIZABETH STREET
COUNTY ROAD NO. 5103-01
DRAWSBURGH, PENNSYLVANIA
COUNTY PROJECT NO. 5103-0101

DES. P.W. DRW. BY RLM CLK. BY EPJ
DATE 5/9/18 SCALE AS SHOWN SHEET 1 OF 1

2788-RW

M E M O R A N D U M
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: January 31, 2019

RE: Proposed Ordinance

Attached is an Ordinance authorizing the County of Allegheny to acquire by condemnation certain right-of-way and easement areas from a parcel required to stabilize the slope supporting Elizabeth Street southeast of Scott Drive in Dravosburg 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.

RECEIVED
ALLEGHENY COUNTY COUNCIL
2018 DEC 22 AM 11:11