

No. 11-19-OR

AN ORDINANCE

An Ordinance authorizing the County of Allegheny to acquire by condemnation certain easement areas required to stabilize slope supporting McCoy Road, at Dunn Street, in Stowe Township, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

Whereas, a land slide has occurred on the slope supporting McCoy Road at Dunn Street in Stowe Township, closing one lane of traffic on this two-lane highway; and

Whereas, traffic from one direction must allow oncoming traffic from the other direction to pass before proceeding and additional sliding may occur requiring the closure of the entire road; and

Whereas, acquisition of certain easements is required to stabilize the slope to fully open the road and insure continued public use and safety; and

Whereas, the Department of Public Works found four of the required five parcels (two of the parcels are owned by one person) are encumbered by real estate tax liens and that the tax records do not show current addresses for the owners of said real estate; and

Whereas, the Department of Public Works has made a diligent search, but has been unable to find the record owners of Parcels 2, 3, 4 and 5 and must use condemnation procedure as a last resort to obtain possession of the required areas that are necessary to stabilize the slope and reopen the road to traffic; and

Whereas, the Department of Public Works will continue its good faith efforts to amicably acquire the properties of the parties hereinafter identified but, due to the urgent need to stabilize the slope supporting McCoy Road for protection of the public, it is necessary to authorize the acquisition of such properties through eminent domain; and

Whereas, the County Council of Allegheny County deems it advisable to acquire the required easement areas, within Stowe Township, County of Allegheny and Commonwealth of Pennsylvania for the purpose of stabilizing the slope supporting McCoy Road at Dunn Street in Stowe Township, Project No. 6196-0201, (the "Project"); said properties being identified as:

1. Parcel #1; 2,056 square feet of slope easement, 1,204 square feet of substitute utility easement and 2,369 square feet of temporary construction easement from tax parcel 73-L-395 and 9,958 square feet of slope easement, 1,100 square feet of substitute utility

easement and 8,195 square feet of temporary construction easement from tax parcel no. 73-L-382 of land of Anita Macias;

2. Parcel #2; 1,097 square feet of substitute utility easement from tax parcel 73-L-126 of land of Violet W. West;
3. Parcel #3; 1,077 square feet of substitute utility easement from tax parcel 73-L-128 of land of Alexander Nichol;
4. Parcel #4; 1,088 square feet of substitute utility easement from tax parcel 73-L-130 from land of Anna C. Nichol and Helen Nichol;
5. Parcel # 5; 1,131 square feet of substitute utility easement from tax parcel 73-L-132 of land of Violet W. West.

Whereas, the Right-of-Way Drawings for said Project were recorded March 11, 2019 in the Allegheny County Department of Real Estate in Plans-Miscellaneous Book 178, Page 43; and

Whereas, the County Executive authorized the Law Department to clear the right of way for said Project by his Executive Action approved March 7, 2019, Executive Action No. 5351-19; 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, slope easements and utility substitute easements and take under the power of eminent domain part of the property of the following persons or corporations and to acquire title thereto for such easement interests as set forth in the Recitals, as necessary for the Project:

PARCEL NO.	RECORD OWNERS	TAX PARCEL BLOCK & LOT NO.
1	Anita Macias	73-L-395 73-L-382
2	Violet W. West	73-L-126
3	Alexander Nichol	73-L-128
4	Anna C. Nichol and Helen Nichol	73-L-130
5	Violet W. West	73-L-132

Said properties are 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, 2010

Council Agenda No. 11044-19


John DeFazio
President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office May '8, 2016

Approved: 
Rich Fitzgerald
Chief Executive

Attest: 
Sonya Dietz
Executive's Secretary

**SUMMARY OF NEED FOR
ORDINANCE TO ACQUIRE PROPERTY BY CONDEMNATION
TO STABILIZE SLOPE SUPPORTING McCOY ROAD AT DUNN STREET,
STOWE TOWNSHIP**

The Public Works Department seeks authorization to acquire by condemnation certain properties required to stabilize the slope supporting McCoy Road. One lane of this two-lane road is closed due to a land slide. Traffic must alternate each direction on one lane. We seek to acquire certain easements as set forth in the Recitals necessary to complete this project, as soon as possible, in order to restore two-way traffic on both lanes.

Anita A. Macias, Parcel 1

The owner of Parcel No. 1, has been located and will be sent an offer letter. Parcel No. 1 is listed in anticipation of a possible need to condemn in the event negotiations fail.

Violet W. West, Parcel 2 and Parcel 5

Parcels No. 2 and 5 are encumbered with tax liens as far back as 1995. The real estate tax record does not provide an address for the owner. An internet search was conducted with no credible results to locate the owner. There is currently no will recorded for Violet W. West.

Alexander Nichol, Parcel 3

Parcel No. 3 is encumbered with tax liens as far back as 1995. The real estate tax record does not provide an address for the owner. According to a will filed, Alexander Nichol died on October 24, 1943 in Warren, Ohio. The listed next of kin were over the age of 21 at the time of death which suggest they are close to 100 years of age. An attempt to locate the next of kin is currently underway. Parcel 3 is listed in anticipation of a possible need to condemn in the event the next of kin cannot be located.

Anna C. & Helen Nichol, Parcel 4

Parcel No. 4 is encumbered with tax liens as far back as 1995. The real estate tax record does not provide an address for the owner. An internet search was conducted with no credible results to locate the owner. There is currently no will recorded for Anna C. Nichol or Helen Nichol.

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

STATIONING

STATION	OFFSET	STATION	OFFSET
10+00	0.00	10+50	0.00
10+10	1.00	10+60	1.00
10+20	2.00	10+70	2.00
10+30	3.00	10+80	3.00
10+40	4.00	10+90	4.00

APPROVED

BY THE COUNTY EXECUTIVE THROUGH THE MANAGER OF
ALLEGHENY COUNTY THIS PROJECT WAS AUTHORIZED
FOR PROSTATEY ACQUISITION BY THE ALLEGHENY
COUNTY MANAGER

OFF: 22.74'R
STA: 20+47.68
OFF: 51.80'R

66-4545-2-1000
 53-2-1000
 53-2-1000
 53-2-1000

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100

EASEMENT INFORMATION
COUNTY OF ALLEGHENY
COUNTY ROAD 6135
PARCEL NO. 00
STONE TOWNSHIP, PENNSYLVANIA
SECT. NO. 02
PROPERTY OWNER(S) ALEXANDER, MICHAEL E. & JAMES E. NIEBER
GRANTOR(S) WILLIAM C. MILLER, MICHAEL E. NIEBER, L. & JAMES E. NIEBER

BLOCK & LOT	DEED BOOK	PAGE(S)	DATE OF DEED	DATE OF RECORD	CONSIDERATION	AREAS	REQUIRED AREA	S.F.
73-1-395	7249	216	11/17/2018	11/17/2018	\$17,500	DEED CALCULATED ADVERSE TOTAL REQ. R/W	TOTAL REQ. R/W	4,671
						LEGAL RIGHT-OF-WAY CHANNEL EASEMENT	SLOPE EASEMENT	2,058
						TOTAL REQ. R/W	TRAMP CONST. EASE	2,307
						TOTAL RESIDUE	SUB UTILITY EASE	1,200
						RESIDUE LT	VERIFICATION DATE	
						RESIDUE RT		

BLOCK & LOT	DEED BOOK	PAGE(S)	DATE OF DEED	DATE OF RECORD	CONSIDERATION	AREAS	REQUIRED AREA	S.F.
73-1-392	7249	216	11/17/2018	11/17/2018	\$17,500	DEED CALCULATED ADVERSE TOTAL REQ. R/W	TOTAL REQ. R/W	4,671
						LEGAL RIGHT-OF-WAY CHANNEL EASEMENT	SLOPE EASEMENT	2,058
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FOOTNOTES:
(1) SLOPE EASEMENT INCLUDES 473 SF OF OVERLAP WITH SUBSTITUTE UTILITY EASEMENT.
(2) TEMPORARY CONSTRUCTION EASEMENT INCLUDES 485 SF OF OVERLAP WITH SUBSTITUTE UTILITY EASEMENT.
(3) SUBSTITUTE UTILITY EASEMENT INCLUDES 485 SF OF OVERLAP WITH TEMPORARY CONSTRUCTION EASEMENT AND 473 SF OF OVERLAP SLOPE EASEMENT.

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County of Allegheny
Pittsburgh, Pennsylvania
Department of Public Works

EASEMENT DRAWING
FOR
MCCOY ROAD LATERAL SUPPORT

MCCOY ROAD
COUNTY ROAD NO. 6135-02
STONE TOWNSHIP, PENNSYLVANIA
COUNTY PROJECT NO. 6135-0201

DATE 2/17/2018
SCALE AS SHOWN
SHEET 2 OF 2
2790-RW

PREPARED BY
D. AMPOLONA
701 POND ROAD, FLOOR 2
PITTSBURGH, PA 15222

VERIFIED BY
KAG ENGINEERING, INC.
1000 POND ROAD, FLOOR 2
PITTSBURGH, PA 15222

DATE 2/17/2018
PROFESSIONAL LAND SURVEYOR

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 easement areas required to stabilize slope supporting McCoy Road, at Dunn Street, in Stowe Township, 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.

ALCO COUNCIL RECEIVED

19 APR 18 AM 10:05:04