



ENGINEERING & COMMUNITY DEVELOPMENT DEPARTMENT(S)
STAFF REPORT
JANUARY 17, 2025

RESOLUTION #: 2025-06
Project Name: 19 Road Right-of-Way Acquisition Project
Application Type: Acquisition of Right-of-Way
Representative: Mills Thomas Barlow
Location: 993 19 Road
Request: This is a request to approve Resolution 2025-6 to commence Eminent Domain proceedings to acquire 1588 square feet of Right-of-Way needed for the 19 Road Improvement Project.

Summary and Timeline of Right-of-Way Acquisition – 19 Road Project:

During the summer of 2022 the City of Fruita began preparations to complete a road improvement project on 19 Road to accommodate increased traffic on 19 Road due to school traffic and increasing development on the East end of the City’s urban growth boundary area, to provide safe pedestrian and bicycle access along the corridor and to allow safe installation and burial of utilities (the “Project”). As the Project would require the acquisition of additional right-of-way (“ROW”) from private property owners, the City started by identifying the affected parcels of land and reaching out to the landowners for permission to survey the property needed..

March 2023 \ – City contracts with A Project Resources (Matt Sheader, Principal) for ROW acquisition for the Project to be completed by March 2024.

- 22 properties from which right-of-way would need to be acquired requiring verification of title and a survey.
- City commits to making each landowner whole through the acquisition process and being fair and consistent with each of the individual negotiations.

January 17, 2024, City had mailed letters to irrigation headgate owners within the Project area and held a public meeting to discuss Project impacts and City’s accommodations for the same

- First public meeting concerning the Project
- Staff members in attendance also answered many questions about the scope of the road project as well as questions about right-of-way acquisition.
- No one was present representing the Barlow property

January 23, 2024,

A Project Resources contracted with two appraisal firms for the City's appraisals for each ROW parcel needed

- at Matt Sheader's request, completion date for the land acquisition changed from March of 2024 to August 1, 2024.

February 1, 2024 A Project Resources sent "intent to purchase" packages to each property owner from which the City needed to acquire ROW.

- communicated to the landowners the City would perform an appraisal to determine the fair market value of the proposed ROW to be acquired.
- Informed landowners they could hire their own appraiser (at the City's expense) and included a list of appraisers.
- Notified landowners that there was a ninety-day timeline for private appraisals to be completed by April 30, 2024, to allow for several months of negotiations before the August 1st deadline.

April 16, 2024, Steve Martinez followed up with Matt Sheader regarding the status of the Barlow Property. Matt Sheader responded that the Barlow family still had not answered the 90-day notice. Mr. Martinez requested that Mr. Sheader research why the Barlows had not responded and whether there was another address or contact for the property.

May 14, 2024, Steve Martinez updated then City Engineer, Sam Atkins, that Matt Sheader would be sending out a certified letter to the address on file for Barlow property to elicit a response. Mr. Martinez recommended that the City send law enforcement out to hand deliver notice if no one responded to the letter.

May 21, 2024, Mr. Sheader suggested to Mr. Martinez to leave some money in the budget for ROW acquisition for potential unknowns, including the possibility of having to go to condemnation with the Barlow property if remained unresponsive.

June 3, 2024, Mr. Martinez asked Mr. Sheader for an update on the Barlow property, since there was still no response, and the August deadline was fast approaching.

- Mr. Sheader stated that the 90 days for Barlow to obtain their own appraisal had passed so that was waived
- Mr. Sheader would contact Barlow via certified letter for a valuation inspection.

July 31, 2024, Matt Sheader informed Steve Martinez that the certified mailer to Barlow was returned undelivered for "animal interference".

- since all correspondence to this point had failed, Mr. Sheader suggested that the City hire an appraiser and have the property appraised officially, then deliver that appraisal package to the landowner via process server. The other option would be to move ahead with condemnation.

August 5, 2024, The City hired Bob Stevens to appraise the Barlow property.

August 9, 2024, Barlow package returned to Matt Sheader from post office as undeliverable.

August 12, 2024, Steve Martinez emailed Matt Sheader with concerns that they were “barking up the wrong tree” and also wonder who was actually living on the premises.

September 9, 2024, Steve Martinez and Matt Sheader received the appraisal report for the Barlow property from Bob Stevens.

October 1, 2024, Steve Martinez got quotes from a process server.

October 3, 2024, Matt Sheader finished the official offer for the Barlow property to bring to the 19 Road Public Meeting that evening in a packet to be turned over to a process server to deliver to the property owner

- during the meeting, Mr. Martinez and Mr. Sheader learned that that Mills Thomas Barlow, the property owner, was deceased.

October 4, 2024, Officer Pacheco of the Fruita Police Department sent contact information for Nicole Barlow Nelson, the owner’s daughter, to Steve Martinez who provided it to Matt Sheader.

November 4, 2024, Steve Martinez spoke to Nicole Barlow Nelson on the phone and explained the situation. Steve was able to get her email address at this time and sent the phone number and email address to Matt Sheader.

November 7, 2024, The City sends the offer packet to Ms. Nicole Barlow.

From November to the present the City has learned that the property is being lived in by a son, and that Mills Thomas Barlow left no will for the estate. Nicole Nelson is currently working on getting a lawyer to help her get the property into probate so that she can take legal responsibility for the property and negotiate with her siblings on how the funds for the right-of-way acquisition should be dispersed.

January 6, 2025, Matt Sheader sent Ms. Nicole Barlow Nelson a final offer from the City for acquisition of the 1588 square feet of the Barlow Property necessary for ROW acquisition, which offer expired on January 20, 2025.

Attachments with Staff Report:

City of Fruita Urban Growth Boundary Map
City of Fruita Future Land Use Map
City of Fruita Circulation Plan Map
Street Classification Cross Section for Major Arterial Road
Property Vicinity Map
Exhibit “A” Right-of-Way Survey Legal
993 19 Road Warranty Deed
Green Trust Minor Subdivision Plat

LOCATION MAP



STAFF RECOMMENDATION:

Because the property owner is deceased and no heir or power of attorney has been named to the estate, the property will need to go into probate. As this land is necessary for the 19 Road project, the City has no choice but to commence condemnation proceedings in court to acquire it while the family settles the estate matters. Staff recommends that Council adopt Resolution 2025-6 to initiate condemnation proceedings pursuant to C.R.S. § 38-1-101 et seq.