



ENGINEERING SERVICES

To: Mayor and Town Council

From: Hulon T. Webb, Jr., P.E., Director of Engineering Services

Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager

Re: Eminent Domain Authorization Resolution: Legacy (Prairie – Fishtrap)

Town Council Meeting – June 27, 2023

Agenda Item:

Consider and act upon a resolution of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain properties for right-of-way, temporary construction easements, drainage easements, and water easement for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

Description of Agenda Item:

The Town is in the process of developing engineering plans for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project. To facilitate the construction of the project, it is necessary for the Town to acquire certain parcels of right-of-way, temporary construction easements, drainage easements, and water easement. The specific parcels are identified in the attached Resolution, and the Location Map included with this agenda item depict the two (2) properties currently known to be affected. As with other similar road construction projects, it is not anticipated that all parcels will require the use of eminent domain to complete the acquisition process, however, staff is requesting advance authorization to pursue acquisition by eminent domain if standard negotiations are unsuccessful.

Budget Impact:

No direct budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the Resolution as to form and legality.

Attached Documents:

1. Resolution
2. Location Map

Town Staff Recommendation:

Town staff recommends that the Town Council of the Town of Prosper, Texas, approve the attached Resolution declaring the necessity to acquire certain properties for right-of-way, temporary construction easements, drainage easements, and water easement for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project with such properties being more particularly described in the attached Resolution; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

Proposed Motion:

I move that the Town Council of the Town of Prosper, Texas, approve the attached Resolution declaring the necessity to acquire certain properties for right-of-way, temporary construction easements, drainage easements, and water easement for the construction of the Legacy (Prairie – Fishtrap) – 4 lanes project with such properties being more particularly described in the attached Resolution; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property if purchase negotiations are not successful.

Please note: Pursuant to Section 2206.053(c) of the Texas Government Code, if two (2) or more councilmembers object to adopting this single Resolution for all the properties referenced therein, a separate record vote must be taken for each unit of property.

This item requires a roll call vote.