

RESOLUTION NO. 56-1988

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, DECLARING THE NECESSITY FOR ACQUIRING BY CONDEMNATION THE FEE SIMPLE TITLE TO CERTAIN DESCRIBED PROPERTY FOR RIGHT-OF-WAY FOR THE ELM CREEK AT OLD ANSON ROAD CHANNEL AND BRIDGE IMPROVEMENT PROJECT, AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED.

WHEREAS, the City Council of the City of Abilene has heretofore determined to acquire the right-of-way necessary for channel and bridge improvements along Elm Creek at Old Anson Road; and,

WHEREAS, an independent professional appraisal report of the subject property has been submitted to the City, and the City Manager has accordingly established and approved a certain amount determined to be just compensation for that parcel; and,

WHEREAS, an official written offer based upon the amount determined to be just compensation has been transmitted to the owners of the property described herein, and the owners have been unable to agree with the City of Abilene upon the property's fair cash market value and further negotiations for settlement have become futile and impossible; and,

WHEREAS, the City of Abilene has complied with all prerequisites of the law, and condemnation has become necessary in order to acquire the unencumbered fee simple title, save and except oil, gas and sulphur rights with no right of exploration, to the property described below; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That it is hereby determined that the City of

Abilene has in fact transmitted a bona fide offer to the property owners, in accord with the laws of the State of Texas, for the property described below, and the owners of that property and the City of Abilene have been unable to agree and cannot agree upon the value of the land or the damages to be paid and further settlement negotiations have become futile and impossible.

PART 2: That public necessity requires the acquisition of the unencumbered fee simple title to the property described below, save and except oil, gas, and sulphur rights with no right of exploration, for right-of-way purposes of the Elm Creek at Old Anson Road Channel and Bridge Improvement Project in the City of Abilene, Texas; and that public necessity and convenience require the condemnation of this property in order to acquire it for flood control and bridge purposes.

PART 3: That the City of Abilene Legal Department is hereby authorized and directed to institute proceedings in eminent domain against Leo Riley and Shirley Riley, owners of the property described herein, and against all other interested owners, lienholders and other holders of an interest in the property, in order to acquire the unencumbered fee simple interest, save and except oil, gas, and sulphur rights with no right of exploration, in and to the following described property lying and being situated in the City of Abilene, Taylor County, Texas, to-wit:

0.363 acre of land out of L. Bowerman Survey No. 83, Taylor County, Texas, including a 0.127 acre roadway easement conveyed to the City of Abilene from J. B. McCollum by easement dated March 23, 1971, as recorded in Volume 907, Page 703 of the Deed Records of Taylor County, Texas. Said land

is a part of that 1 acre tract of land conveyed to Leo Riley and wife, Shirley Riley, from Donald Bruce McCollum by Deed dated May 11, 1981, as recorded in Volume 1193, Page 493 of the Deed Records of Taylor County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" x 12" nail set in Elm Creek located at the northwest corner of said 1 acre tract and also the northwest corner of said roadway easement;

THENCE N 87° 26' E along the north line of said 1 acre tract and also the north line of said roadway easement for a distance of 79.5 feet to a set railroad spike in Old Anson Road;

THENCE S 18° 04' E along the east line of said 1 acre tract and also the east line of said roadway easement, passing a found concrete highway right-of-way monument representing the southeast corner of said road easement at 161.96 feet, continuing a total distance of 230.5 feet to a 3/8" x 12" nail set in the west line of Old Anson Road;

THENCE along a curve to the left having a radius of 369.26 feet and an arc length of 181.62 feet, being subtended by a chord N 38° 24' W for a distance of 179.79 feet to a set 3/8" x 12" nail;

THENCE S 28° 54' W for a distance of 166.7 feet to a set 3/8" x 12" nail located in a fence line representing the south line of said 1 acre tract;


THENCE N 17° 31' W along said fence line, passing a found 3/8" iron pin at 16.5 feet, for a total distance of 19.5 feet to a set 3/8" x 12" nail located at the southwest corner of said 1 acre tract;

THENCE N 13° 09' E for a distance of 207.5 feet along the west line of said 1 acre tract to the Place of Beginning and containing 0.363 acre of land.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 1st day of December, A.D., 1988.

ATTEST:


A. Moore
CITY SECRETARY

Dale Ferguson
MAYOR

APPROVED:

Claudia Clinton
CITY ATTORNEY