



Cover Memorandum/Staff Report

File #: 24-631

Agenda Date: 5/7/2024

Item #: 6.B.

TO: Mayor and Commissioners
FROM: Lynn Gelin, City Attorney
DATE: May 7, 2024

RESOLUTION NO. 90-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NOTIFY THE OWNERS OF PROPERTY OF THE CITY'S NEED FOR EASEMENTS THEREON, PROVIDE A WRITTEN OFFER OF COMPENSATION IN THE AMOUNT OF \$179,500, ENGAGE IN PRESUIT NEGOTIATIONS, AND OTHERWISE COMPLY WITH SECTION 73.015 OF THE FLORIDA STATUTES IN AN EFFORT TO ACQUIRE A PERMANENT EASEMENT AND A TEMPORARY EASEMENT ON PROPERTY HAVING AN ADDRESS OF 142 SEABREEZE AVENUE, DELRAY BEACH, THAT ARE REQUIRED TO CONSTRUCT AND INSTALL A NEW EXPANDED STORMWATER PUMP STATION FACILITY WITHIN THE THOMAS STREET RIGHT-OF-WAY LYING WEST OF SEABREEZE AVENUE; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 91-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DECLARING THE ACQUISITION OF A PERMANENT EASEMENT AND A TEMPORARY EASEMENT, DESIGNATED AS PARCELS 2A AND 2B, NECESSARY FOR THE CONSTRUCTION OF A NEW EXPANDED STORMWATER PUMP STATION FACILITY WITHIN THE THOMAS STREET RIGHT-OF-WAY LYING WEST OF SEABREEZE AVENUE, TO BE FOR A PUBLIC USE AND PURPOSE; AUTHORIZING THE EMPLOYMENT OF APPRAISERS AND OTHER EXPERTS; AUTHORIZING THE FILING OF EMINENT DOMAIN PROCEEDINGS IN THE EVENT PRESUIT NEGOTIATIONS ARE UNSUCCESSFUL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 92-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NOTIFY THE OWNERS OF PROPERTY OF THE CITY'S NEED FOR EASEMENTS THEREON, PROVIDE A WRITTEN OFFER OF COMPENSATION IN THE AMOUNT OF \$139,750, ENGAGE IN PRESUIT NEGOTIATIONS, AND OTHERWISE COMPLY WITH SECTION 73.015 OF THE FLORIDA STATUTES IN AN EFFORT TO ACQUIRE A PERMANENT EASEMENT ON PROPERTY HAVING AN ADDRESS OF 202 SEABREEZE AVENUE, DELRAY BEACH, THAT IS REQUIRED TO CONSTRUCT AND INSTALL A NEW EXPANDED STORMWATER PUMP STATION FACILITY WITHIN THE THOMAS STREET RIGHT-OF-WAY LYING WEST OF SEABREEZE AVENUE; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 93-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DECLARING THE ACQUISITION OF A PERMANENT EASEMENT, DESIGNATED AS PARCEL 1, NECESSARY FOR THE CONSTRUCTION OF A NEW EXPANDED

STORMWATER PUMP STATION FACILITY WITHIN THE THOMAS STREET RIGHT-OF-WAY LYING WEST OF SEABREEZE AVENUE, TO BE FOR A PUBLIC USE AND PURPOSE; AUTHORIZING THE EMPLOYMENT OF APPRAISERS AND OTHER EXPERTS; AUTHORIZING THE FILING OF EMINENT DOMAIN PROCEEDINGS IN THE EVENT PRESUIT NEGOTIATIONS ARE UNSUCCESSFUL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Recommended Action:

Review and consider Resolution 90-24, authorizing the City Manager to provide required notice and offer of compensation to the property owners of 142 Seabreeze Avenue to acquire permanent and temporary easements required to complete the new Thomas Street stormwater pump station as required by Florida Statutes prior to filing an eminent domain proceeding.

Review and consider Resolution 91-24, declaring the acquisition of permanent and temporary easements on the property located at 142 Seabreeze Avenue necessary for the construction of the new Thomas Street stormwater pump station and to be for a public purpose, and authorizing the City to proceed with an eminent domain proceeding to acquire those easements in the event presuit negotiations are unsuccessful.

Review and consider Resolution 92-24, authorizing the City Manager to provide required notice and offer of compensation to the property owners of 202 Seabreeze Avenue to acquire a permanent easement required to complete the new Thomas Street stormwater pump station as required by Florida Statutes prior to filing an eminent domain proceeding.

Review and consider Resolution 93-24, declaring the acquisition of a permanent easement on the property located at 202 Seabreeze Avenue necessary for the construction of the new Thomas Street stormwater pump station and to be for a public purpose, and authorizing the City to proceed with an eminent domain proceeding to acquire those easements in the event presuit negotiations are unsuccessful.

Background:

The City of Delray Beach (the "City") owns and operates the Thomas Street Pump Station located at 1101 Thomas Street in Delray Beach, Florida. This pump station currently provides stormwater pumping for the 50-acre drainage basin including Thomas Street, Vista Del Mar Drive, and part of Andrews Avenue and Lowry Street. The City of Delray Beach Stormwater Master Plan, completed by ADA Engineering in February 2019, proposed capacity increases and other major infrastructure improvements to meet South Florida Water Management District and Level of Service criteria for both current and 30-year Sea Level Rise tidal conditions.

The Thomas Street Pump Station is a vital lifeline for approximately 800 residents living in the 50-acre drainage basin. The original pump station was built in the 1970s and has reached the end of its designed useful life. The original pump capacity was designed for a 25-year, 3-day storm event at the time it was designed, which was 18,000 gallons per minute (GPM). A higher pump capacity is required to meet current South Florida Water Management District Level of Service criteria for both current and 30-year Sea Level Rise and tidal conditions. The existing pump station has no backup generator, and its sole power source comes from overhead powerlines, which can render the pump station out of service during outages in peak hurricane season. Finally, the existing pump station does not provide any water quality improvements to the stormwater prior to discharge to the Intracoastal Waterway.

A new 85,000 GPM stormwater pump station will be constructed with an upgraded drainage network, backup generator, diesel fuel tank, buried underground powerlines and onsite water treatment facility. The City intends to construct and install the new expanded stormwater pump station in the same location as the existing pump station (the "Project"). In order to complete the Project, the City requires the acquisition of a permanent easement and a temporary easement on the property located at 142 Seabreeze Avenue, and a permanent easement on the property located at 202 Seabreeze Avenue (collectively referred to as the "Easements" and the "Property"). Since July 2021, City staff have attempted to acquire the Easements from the Property owners without success.

The City was approved to receive both state and federal funding to complete the Project. These funds require the Project to be completed by certain deadlines, which may be in danger of expiration if the City cannot acquire the Easements. Due to the unsuccessful negotiations with the Property owners, the City is seeking permission to proceed with an eminent domain action to acquire the Easements so the Project can be completed before the state and federal funding expires.

Prior to exercising its eminent domain authority, the City is required to notify the owners of the Property of the City's need for the Easements, provide the owners of the Property a written offer of compensation to purchase the Easements, fulfill the other requirements of Section 73.015, Florida Statutes, and attempt to reach an agreement regarding the amount of compensation to be paid for the Easements. If the Easements cannot be acquired through presuit negotiation, the City can exercise its eminent domain authority pursuant to Chapters 73 and 74, and Sections 166.401 and 166.411, Florida Statutes, as amended, to acquire the Easements.

The Resolutions provide the City Manager with the authority to make a presuit offer to acquire the Easements and authorize the City to proceed with an eminent domain proceeding in the event presuit negotiations are unsuccessful.