

August 26, 2021
Item No. 9.4.
Saum Resolution

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution of the City Council of the City of College Station, Texas, determining that a fee simple containing approximately 102.4 acres of land, is needed to be acquired from Gerry L. Saum, for the construction, operation, and maintenance of a public park as part of the Westside Community Park Project for the City of College Station, Texas; and authorizing the institution of eminent domain proceedings.

Relationship to Strategic Goals:

1. Core Services and Infrastructure

Recommendation(s): Staff recommends adopting the resolution.

Summary: On September 11, 2017, the City entered in to an agreement to purchase from Gerry Saum, approximately 102.4 acres of land for the construction, operation, and maintenance of a public park as part of the Westside Community Park Project. Subsequently, a dispute arose between the parties regarding the agreement. The dispute has not been resolved. This resolution authorizes the institution of eminent domain proceedings to acquire the needed land.

Budget & Financial Summary: n/a

Attachments:

1. Resolution with Exhibit A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING THAT A FEE SIMPLE CONTAINING APPROXIMATELY 102.4 ACRES OF LAND, IS NEEDED TO BE ACQUIRED FROM GERRY L. SAUM, FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A PUBLIC PARK AS A PART OF THE WESTSIDE COMMUNITY PARK PROJECT FOR THE CITY OF COLLEGE STATION, TEXAS; AND AUTHORIZING THE INSTITUTION OF EMINENT DOMAIN PROCEEDINGS.

* * * * *

WHEREAS, the City Council of the City of College Station now finds and determines that public convenience and necessity requires the City of College Station to acquire a fee simple over and across tracts of land containing approximately 102.4 acres, for the construction, operation, and maintenance of a public park and other public infrastructure in the City of College Station, Texas, a more specific description of said 102.4 acre fee simple tract is attached hereto as Exhibit “A” and made a part hereof (herein after the “Land”); and

WHEREAS, the City of College Station, through its duly authorized representatives, has negotiated with the owners of the Land for the purchase of same for the purpose stated herein and has been unable to agree with such owners as to the fair cash market value thereof and damages, if any; and

WHEREAS, the City Council of the City of College Station has authorized the City Manager or his designee to make an offer to the owners of the Land for the purchase of same based upon its appraised value, and such offer has been made and the owner has refused to accept such final offer; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

Section 1. The facts and recitals set forth in the preamble of this resolution are hereby found to be true and correct.

Section 2. The City Council of the City of College Station finds that a bona fide offer has been made by duly authorized representatives of the City for the acquisition of a fee simple over and across the herein described Land, and that said offer was not accepted, and that the only way for the City of College Station to acquire such interest in said tract of land is through the filing of eminent domain proceedings.

Section 3. The City Council hereby finds and determines that a public use and necessity exists for the City of College Station to construct, operate, and maintain a public park and other public infrastructure purposes as part of the Westside Community Park Project, and to acquire the necessary property rights in the 102.4 acre tract of land, deemed necessary for the Westside Community Park Project, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land.

Section 4. The final offer heretofore made to the owner for the purchase of the Land is in all things hereby ratified and confirmed.

Section 5. The City Attorney, or her designee, is hereby authorized to bring eminent domain proceedings on behalf of the City of College Station under applicable provisions of law, whether provided by §251.001 of the Texas Local Government Code, as amended, Chapter 21 of the Texas Property Code, or by any other provision of law, against the owner or owners of the Land, to-wit: Gerry L. Saum, Individually and as Independent Executrix of the Estate of Susan M. Wood or against the real and true owner, owners, claimant, or claimants if Gerry L. Saum,

Individually, and as Independent Executrix of the Estate of Susan M. Wood are said not to be the owners of the Land.

PASSED, APPROVED, AND RESOLVED this ____ day of _____, 2021.

Karl Mooney
Mayor

ATTEST:

Tanya D. Smith
City Secretary

APPROVED AS TO FORM:

Carla A. Robinson
City Attorney

Exhibit A

Legal Description – 102± acres
Prepared from Recorded Instruments
Saum and Wood Tracts
Lying Southwest of N. Dowling Road
Childress A-95 and Yates A-248 surveys
Brazos County, Texas

Approximately 102 acres of land, being all of that called 57.01 acre tract described in the deed to Gerry L. Saum and Susan M. Wood recorded in volume 2027, page 236 of the Official Public Records of Brazos County, Texas and all of that called 55.46 acre tract described in the deed to Gerry L. Saum recorded in volume 1122, page 277 of the Official Records of Brazos County, Texas, save and except the 1.4318 acre and 0.8709 acre tracts described in Exhibit B of Cause no. 332-CC in the District Court records of Brazos County, Texas and awarded to Brazos County by judgement in December 1996 for North Dowling Road right-of-way, and further save and except the northeast portions of the called 57.01 acre and 55.46 acre tracts which are located northeast of the 1.4318 acre and 0.8709 acre tracts.

Berner Ventures, LLC
 Series 108
 rem. of 30.46 acres
 vol. 14462, pg. 162

Heath K. Phillips
 12,041 acres
 vol. 13370, pg. 27

Gregory S. Loe
 and Sharon L. Loe
 6,000 acres
 vol. 5911, pg. 12

Bryan McGuire and
 Dee Ann McGuire
 9.93 acres
 vol. 16113, pg. 186

Paul R. Hundl
 and Joanna Hundl
 27.77 acres
 vol. 7864, pg. 244

Mrs. Oscar Murphy
 (rem. of) 55.46 acres
 vol. 281, pg. 173

Tim Huggins and
 Shannon Huggins
 1.323 acres
 vol. 15794, pg. 190

Donald Ray Murphy
 (rem. of) 6.077 acres
 vol. 2747, pg. 343
 vol. 2753, pg. 197

HOLT HILLS
 vol. 261, pg. 887

Thomas Yates survey A-248

William Dunn survey A-108

John Childress league A-95

Gerry L. Saum and
 Susan M. Wood (estate)
 (rem. of) 57.01 acres
 vol. 2027, pg. 236
 tax id: 14911

approx. 48.6 ac.
 remainder of
 57.01 ac. tract

1.4318 ac. R.O.W.
 out of 57.01 ac.
 tract awarded to
 Brazos County by
 judgement

approx. 7.1 ac.
 remainder of
 57.01 ac. tract
 tax id: 353584

Acreage Note:
 The approximate remainder acreage labeled in boxes
 is based on record descriptions of the tracts and
 not surveying of the property on the ground.

Gerry L. Saum
 (rem. of) 55.46 acres
 vol. 1122, pg. 277
 tax id: 14910

approx. 53.8 ac.
 remainder of
 55.46 ac. tract

approx. 0.5 ac.
 remainder of
 55.46 ac. tract

0.8709 ac. R.O.W.
 out of 55.46 ac.
 tract awarded to
 Brazos County by
 judgement

M.S. Kavanaugh
 (rem. of) 105 acres
 vol. 133, pg. 475
 & vol. 437, pg. 581

Robert F. Bourk
 20.798 acres
 vol. 4815, pg. 209

David G. Schmitz and
 wife, Rose Schmitz
 16.16 acres
 vol. 1253, pg. 26

LOT 1 AND 2
 BLOCK 1
 DMR ACRES
 vol. 12690, pg. 192

NE R.O.W. line is the
 current City Limits line

Ownership Map
 Saum and Wood Tracts
 John Childress survey A-95
 Thomas Yates survey A-248
 Brazos County, Texas

