



**Town of Mansfield
Agenda Item Summary**

To: Town Council
From: Matt Hart, Town Manager *MH*
CC: Maria Capriola, Assistant Town Manager; Lon Hultgren, Director of Public Works
Date: September 9, 2013
Re: North Eagleville Road Walkway Easements

Subject Matter/Background

Recall that we have been working in concert with UConn to construct a walkway on the north side of North Eagleville Road from Hunting Lodge Road to Northwood Road. UConn has agreed to fund the design and construction, and the Town is obtaining the needed easements.

While the four property owners involved have agreed to sign the easements, we have encountered some difficulty in getting the lenders to execute the needed subordinations allowing the easements to become the Town's without encumbrances. We encountered this situation several years ago with the easements that were needed for the bikeway on Birch Road. What we did then, and are recommending now, is to use the Town's power of eminent domain to secure the easements so that the bank's subordinations are not needed. We refer to this process as a "friendly" condemnation, as the property owners have already agreed to the easements and are not contesting them.

As required by Connecticut General Statutes Sections 48-6 & 8-129, the Town must first notify the property owners, conduct a public hearing and then make a finding that these easements are required for the purpose of establishing, constructing or maintaining a public work or municipal purpose. The condemnation must take place within six months of this action.

Four easements are required for this project. One has been completely executed and subordinated (204 N. Eagleville), and a second (188 N. Eagleville) has been signed and sent to the bank and we are hoping to hear back from this lender before the condemnation actually takes place. The other two (numbers 194 and 202) are still in limbo with the lenders.

Memo
September 4, 2013

To: Lon Hultgren
From: Timothy Veillette
Subject: North Eagleville Road Pedestrianway – Easement Acquisitions

As you are aware we have developed plans to construct an pedestrian walkway along the north side of North Eagleville Road. This segment of paved walkway will extend from the intersection of Hunting Lodge Road to Northwood Road. Because this area sees very high volumes of pedestrian traffic, safety warrants the construction of this section.

Throughout the design process we have made every effort to keep the affected owners and the general public informed. The adjacent homeowners were informed by letter. The design was then finalized, incorporating comments from the adjacent homeowners.

With the design complete, the required easement maps were prepared by F. A. Alfred Benesch and Company. Four easements will be required to construct this pedestrianway, the majority being just over the existing road right-of-way line. Joseph E. Hickey III of Connecticut, Certified General Appraiser, was then hired to appraise these easements at fair market value.

Easement packets were sent to each of the property owners that we needed an easement from. The packet contained a cover letter, a draft deed, the easement appraisal, the easement map. The letter requested that the individuals review the materials, then sign off on the easement. Of the 4 easements needed, all 4 have responded positively, returning the signed easement documents. The remaining part of the easement acquisition is the lenders signing off. This has been, as in most instances, difficult. The lenders are slow to respond, not because of opposition, but due to processing procedures.

The table below is summary of the 15 easements for this project.

Property Address	Owner	Easement Area (SF)	Appraised Value
188 No. Eagleville Rd	Mihalopoulos	110	\$820
194 No. Eagleville Rd	Shih & Yuan	54	\$120
202 No. Eagleville Rd	Tavar	705	\$1,150
204 No. Eagleville Rd	Cooper	3,175	\$1,905

We have now exhausted our ability to acquire these easements through the lenders amicably. Therefore, in order to proceed with this project we need to initiate acquisition of these properties by condemnation.

Sec. 48-6. Time limits for municipal corporations to take real property. Taking of property in neighborhood revitalization zones.

(a) Any municipal corporation having the right to purchase real property for its municipal purposes which has, in accordance with its charter or the general statutes, voted to purchase the same shall have power to take or acquire such real property, within the corporate limits of such municipal corporation, and if such municipal corporation cannot agree with any owner upon the amount to be paid for any real property thus taken, it shall proceed in the manner provided by section 48-12 within six months after such vote or such vote shall be void.

(b) In the case of acquisition by a redevelopment agency of real property located in a redevelopment area, except as provided in sections 8-127a, 8-193 and 32-224, the time for acquisition may be extended by the legislative body upon request of the redevelopment agency, provided the owner of the real property consents to such request.

(c) In accordance with the policy established in section 7-603, any municipal corporation may take property which is located within the boundaries of a neighborhood revitalization zone identified in a strategic plan adopted pursuant to sections 7-601 and 7-602. The acquisition of such property shall proceed in the manner provided in sections 8-128 to 8-133, inclusive, and 48-12.

located, a copy of such statement of compensation, such recording to have the same effect and to be treated the same as the recording of a lis pendens, and shall forthwith give notice, as provided in this section, to each person appearing of record as an owner of property affected thereby and to each person appearing of record as a holder of any mortgage, lien, assessment or other encumbrance on such property or interest therein (1) in the case of any such person found ~~to be residing within this state, by causing a copy of such notice,~~ with a copy of such statement of compensation, to be served upon each such person by a state marshal, constable or indifferent person, in the manner set forth in section 52-57 for the service of civil process, and (2) in the case of any such person who is a nonresident of this state at the time of the filing of such statement of compensation and deposit or of any such person whose whereabouts or existence is unknown, by mailing to each such person a copy of such notice and of such statement of compensation, by registered or certified mail, directed to such person's last-known address, and by publishing such notice and such statement of compensation at least twice in a newspaper published in the judicial district and having daily or weekly circulation in the town in which such property is located. Any such published notice shall state that it is notice to the widow or widower, heirs, representatives and creditors of the person holding such record interest, if such person is dead. If, after a reasonably diligent search, no last-known address can be found for any interested party, an affidavit stating such fact, and reciting the steps taken to locate such address, shall be filed with the clerk of the superior court and accepted in lieu of mailing to the last-known address.

(c) Not less than thirty-five days or more than ninety days after such notice and such statement of compensation have been so served or so mailed and first published, the redevelopment agency shall file with the clerk of the superior court a return of notice setting forth the notice given and, upon receipt of such return of notice, such clerk shall, without any delay or continuance of any kind, issue a certificate of taking setting forth the fact of such taking, a description of all the property so taken and the names of the owners and of all other persons having a record interest therein. The redevelopment agency shall cause such certificate of taking to be recorded in the office of the town clerk of each town in which such property is located. Upon the recording of such certificate, title to such property in fee simple shall vest in the municipality, and the right to just compensation shall vest in the persons entitled thereto. At any time after such certificate of taking has been so recorded, the redevelopment agency may repair, operate or insure such property and enter upon such property, and take any action that is proposed with regard to such property by the project area redevelopment plan.