

ORDINANCE NO. 1354

AN ORDINANCE OF THE CITY OF LYNDEN, COUNTY OF WHATCOM, AUTHORIZING THE ACQUISITION OF LAND AND PROPERTY RIGHT FOR THE LAYING OUT, ESTABLISHMENT, AND CONSTRUCTION OF ROAD, SEWER, WATER, AND STORMWATER INFRASTRUCTURE IMPROVEMENTS; PROVIDING FOR DECLARING AS A PUBLIC USE AND NECESSITY AND AUTHORIZING CONDEMNATION, APPROPRIATION, TAKING AND DAMAGING OF LAND AND OTHER PROPERTY RIGHTS NECESSARY THEREFOR; AND PROVIDING FOR THE COST THEREOF

WHEREAS, population growth and planned expansions of City's street system necessitate City acquisition of the real property described in Exhibit A ("Property"), commonly known as 401 Front Street, Lynden and property rights appurtenant thereto; and

WHEREAS, acquisition of the Property is specifically needed for the extension/widening of Fourth Street for public right-of-way purposes including road and road-related appurtenances and sewer, water, stormwater facilities and other utilities (collectively "Road Infrastructure"); and

WHEREAS, the City has contacted the owner(s) of the Property in an attempt to negotiate the purchase of the Property and the parties have yet to reach agreement; and

WHEREAS, in the event an agreement for City purchase of the Property cannot be reached, it is necessary and in the public interest to exercise the City's power of eminent domain and condemn the Property for the purpose of extending the City's Road Infrastructure, subject to the making or paying of just compensation to the owners thereof in the manner provided by law; and

WHEREAS, the foregoing recitals are material findings and declarations of the Lynden City Council;

NOW THEREFORE, BE IT ORDAINED as follows:

Section 1: The foregoing proposed acquisition of the Property is hereby declared to be a public use, that the public interest requires the proposed public use, and that the Property to be acquired hereunder is necessary to facilitate said public use. Said Property or portions thereof shall be condemned, appropriated, taken and damaged for such public purposes, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 2: Compensation for the Property or that portion of the Property condemned including all cost and expense of acquiring same shall be paid from City street funds or from other monies the City may have available or obtain therefore.

Section 3: The City Attorney is hereby authorized to undertake proceedings provided by law to condemn, appropriate, take and damage the land and property necessary to carry out the provisions of this ordinance.

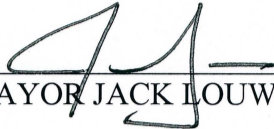
Section 4: The City may condemn all of the Property or those portions thereof that are reasonably necessary to accomplish the public uses described herein, including related and incidental improvements.

Section 5. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 6. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 7. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, 5 IN FAVOR AND 1 AGAINST, AND SIGNED BY THE MAYOR THIS 17 DAY OF March, 2009.


MAYOR JACK LOUWS

ATTEST:


CITY CLERK WILLIAM VERWOLF

APPROVED AS TO FORM:

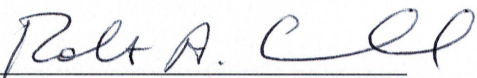

CITY ATTORNEY ROBERT CARMICHAEL

EXHIBIT A

Legal Description

Tax Assessor Parcel No. 400320 325310 0000

That portion of the Southwest Quarter of the Northeast Quarter, Section 20 Township 40 North, Range 3 East of W.M., described as follows:

Commencing at a point on the south line of Front Street in the town of Lynden, Washington, 25 feet easterly from the point of intersection of the said south line of Front Street and the west line of Fourth Street in said town; thence southerly at right angles with Front Street, 140 feet; thence easterly parallel to Front Street, 25 feet; thence northerly at right angles to Front Street, 140 feet to the south line of Front Street; Thence Westerly along the south line of Front Street, 25 feet to the place of beginning.

Situate in Whatcom County, Washington.