

**FRANKLIN COUNTY
COMMISSION AGENDA ITEM**

TO: BOARD OF FRANKLIN COUNTY COMMISSIONERS	Reviewed:
FROM: Lisa J. Johnson	Ext: 3485
DEPARTMENT: Administration	
DATE: Wednesday, October 07, 2009	No:

ITEM: A Resolution Ordering the Condemnation and Appropriation of Certain Interests in Real Estate in Franklin County, Kansas for Use in Widening and Otherwise Improving Montana Road.

Background: The County has been awarded funds from the Department of Transportation to complete the paving of Montana Road from Sandcreek North to the newly paved section of Montana Road as part of the HWY 59 project. In order to widen and pave the road it is necessary for the County to acquire right of way for the project. The County has reached agreements with three of the four affected landowners. The County has been unable to reach an agreement with the remaining landowner. It is the recommendation of staff that the Commission order the condemnation and appropriation of the interest in the necessary real estate in order to widen and pave the remaining section of Montana Road north of Sandcreek.

Recommended Action: A Resolution Ordering the Condemnation and Appropriation of Certain Interests in Real Estate in Franklin County, Kansas for Use in Widening and Otherwise Improving Montana Road.

Attachments: Resolution.

RESOLUTION NO. 09-___

A RESOLUTION OF THE FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS ORDERING THE CONDEMNATION AND APPROPRIATION OF CERTAIN INTERESTS IN REAL ESTATE IN FRANKLIN COUNTY, KANSAS FOR USE IN WIDENING AND OTHERWISE IMPROVING MONTANA ROAD

WHEREAS, the Board of County Commissioners of Franklin County, Kansas (hereinafter the "Board") has heretofore found it necessary to appropriate for public use and purposes certain private property in Franklin County, Kansas necessary for widening and otherwise improving Montana Road between Sandcreek and the new US-59 paving project (hereinafter the "Project").

WHEREAS, the Board has heretofore authorized and ordered a survey to be made of such land by a competent surveyor and said survey has been completed.

WHEREAS, the Department of Public Works has been unable to purchase certain right-of-way necessary for the Project and the Board has determined it necessary and in the public interest and appropriate to use its powers of eminent domain for purposes of acquiring such property interests.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Franklin County, Kansas, as follows:

Section 1. The Board hereby affirms finds and declares the necessity of appropriating interests in real estate for public use for widening and otherwise improving Montana Road north of Sandcreek to the US 59 paving project.

Section 2. The lands and interests required to be taken for such public purpose, for which the Public Works Department has been unable to purchase through agreement, are described as follows:

A. RIGHT-OF-WAY in, over, under, upon and across the following tracts of real estate situated in Franklin County, Kansas:

Commencing at the Southwest corner of the Southwest Quarter of Section 18, Township 16 South, Range 20 East, of the 6th P.M, in Franklin County, Kansas; thence North 01 degrees 26 minutes 26 seconds West, for a distance of 275.00 feet; thence North 88 degrees 33 minutes 34 seconds East a distance of 33.00 feet to the point of beginning; thence North 01 degrees 26 minutes 26 seconds West along the existing East right-of-way line of Montana Road, for a distance of 1052.00 feet to a point on the North line of the South half of the Southwest Quarter of said Section 18; thence North 88 degrees 41 minutes 32 seconds East along said North line a distance of 48.13 feet; thence South 02 degrees 07 minutes 07 seconds East a distance of 326.91 feet to a point 85.00 feet East of the West line of said Southwest Quarter; thence South 04 degrees 16 minutes 12 seconds West a distance of 301.50 feet to a point 55.00 feet East of the West line of said

Southwest Quarter; thence South 01 degrees 26 minutes 26 seconds East a distance of 400.00 feet; thence South 05 degrees 18 minutes 12 seconds West a distance of 120.84 feet; thence North 03 degrees 08 minutes 06 seconds West a distance of 95.04 feet to a point 38.00 feet East of the West line of said Southwest Quarter; thence South 88 degrees 33 minutes 34 seconds West a distance of 5.00 feet to the point of beginning.

Said tract of land contains 37,449 square feet (0.85 acres) of land more or less.

And:

A track of land in the Southwest Quarter of Section 18, Township 16 South, Range 20 East, of the 6th P.M., in Franklin County Kansas more particularly described as follows: Commencing at the Southwest corner of said Southwest Quarter; thence North 01 degrees 26 minutes 26 seconds West, along the West line of said Southwest Quarter a distance of 180.00 feet to the Point of Beginning; thence continuing North 01 degrees 26 minutes 26 seconds West along said West line a distance of 1147.07 feet to the Northwest corner of the Southwest Quarter of said Southwest Quarter; thence North 88 degrees 38 minutes 35 seconds East along the North line of said Southwest Quarter of the Southwest Quarter a distance of 33.00 feet; thence South 01 degrees 26 minutes 26 seconds East a distance of 1052.02 feet; thence North 88 degrees 33 minutes 34 seconds East a distance of 5.00 feet; thence South 03 degrees 08 minutes 16 seconds East a distance of 95.04 feet; thence South 88 degrees 33 minutes 34 seconds West a distance of 40.81 feet to the point of beginning;

Said tract of land contains 38,461 square feet (0.88 acres) of land more or less.

All for the purposes and use set forth in Section 1.

Section 3. The interest in said real estate and interest described in Section 2 hereof are hereby ordered condemned for the purposes and use set forth in Section 1.

Section 4. County Counselor for Franklin County, Kansas is authorized to file a verified petition in the District Court of Franklin County, Kansas, for condemnation and appropriation of real estate and interests described in Section 2 pursuant to the Eminent Domain Procedure Act, Article 5 of Chapter 26 of Kansas Statutes Annotated, as amended, and to do all things necessary for the condemnation and acquisition of said real estate, and interest therein.

Section 5. This Resolution shall take effect and be in full force from and after its adoption by the Board of Franklin County Commissioners.

IN WITNESS WHEREOF, this Resolution is adopted this 7th day of October, 2009.

BOARD OF COUNTY COMMISSIONERS
OF FRANKLIN COUNTY, KANSAS

John E. Taylor, Chair

ATTEST:

Shari Perry, County Clerk