



JOHN A. FANTHAM
DIRECTOR OF PUBLIC WORKS

County of Santa Cruz

DEPARTMENT OF PUBLIC WORKS - REAL PROPERTY DIVISION

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060-4070
(831) 454-2331 FAX (831) 454-2385 TDD (831) 454-2123

SCOTT C. LOICHINGER
CHIEF REAL PROPERTY AGENT

AGENDA: JANUARY 26, 1999

January 20, 1999

SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street
Santa Cruz, California 95060

**SUBJECT: RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS -
HIGHLAND WAY SLIDE REPAIR PROJECT AT POST MILE 2.95
28500 HIGHLAND WAY, LOS GATOS, CA
BANKERS TRUST COMPANY OF CALIFORNIA, N.A. - APN 098-13 1-11**

Members of the Board:

Included in the 1998/1999 Public Works budget are funds for the construction of slide repair and debris removal at PM 2.95 Highland Way. The project requires the acquisition of a temporary construction easement for slope stabilization from the above mentioned grantor. The funding for this acquisition is being provided by FEMA and the road fund.

This project was scheduled for construction in 1998 but was delayed due to the difficulty in acquiring property rights from the subject property. All other property rights needed on adjacent parcels were acquired in 1998. The grantor acquired the subject property October 26, 1998 and was given constructive notice prior to ownership of our interest in acquiring a temporary construction easement. The grantor has been afforded a reasonable amount of time to negotiate a settlement. In order to meet the County's 1999 deadlines for this project, it is necessary to file a condemnation action against the owners of the above mentioned parcel. This action will provide for the acquisition of a temporary construction easement over approximately 2.11 acres along the northeasterly boundary of the subject parcel required for the completion of the above mentioned project (see attached map). The property being acquired was appraised by the Real Property Division. The property owner has been offered the fair market value for the property rights being acquired.

We will continue with our negotiations in anticipation that they can be settled without going to trial. The owner of record has been apprised of the intention of condemnation proceedings and, by law, is required to file a written request to appear and be heard if they so desire. You will be informed at the Board meeting if any such requests have been received.

SANTA CRUZ COUNTY BOARD OF SUPERVISORS


Page -2-

As a minimum, the adoption of the attached resolution of necessity requires a 4/5 vote by your Board.

It is recommended that the Board of Supervisors of the County of Santa Cruz take the following action:

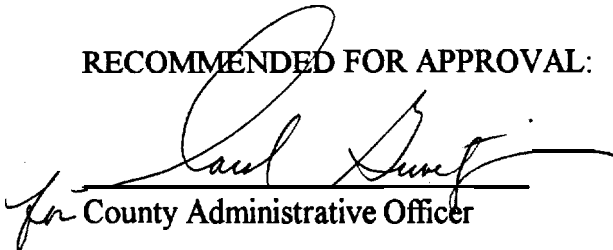
1. Conduct a public hearing on the proposed eminent domain action;
2. Adopt the accompanying Resolution authorizing County Counsel to institute eminent domain proceedings to obtain immediate possession of the required property interests;
3. Direct the Clerk of the Board to return a certified copy of the Resolution to the Real Property Division.

Yours truly,


JOHN A. FANTHAM
Director of Public Works

jsk
Attachments

RECOMMENDED FOR APPROVAL:


for County Administrative Officer

Copy to: Public Works, Real Property Division
Public Works, Operations Division
County Counsel
Auditor-Controller

**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA
RESOLUTION NO. _____**

On the motion of Supervisor
duly seconded by Supervisor
the following resolution is adopted*:

**RESOLUTION AUTHORIZING COUNTY COUNSEL TO INSTITUTE EMINENT DOMAIN
PROCEEDINGS FOR THE HIGHLAND WAY SLIDE REPAIR PROJECT AT POST MILE 2.95
BANKERS TRUST COMPANY OF CALIFORNIA, N.A. - APN 098-131-11**

RESOLVED by the Board of Supervisors of the County of Santa Cruz, State of California:

WHEREAS, in conjunction with the above proposed project, the real property interests hereinafter described are required and the County of Santa Cruz is authorized by the Eminent Domain Law of California (commencing with California Code of Civil Procedure Section 1230.010 and following) to acquire the said property interests by eminent domain; and

WHEREAS, the acquisition of said property interests would be beneficial and in the best public interest;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors of the County of Santa Cruz hereby finds, determines, and declares that the public interest and necessity require the acquisition, construction, and completion by the County of the proposed public improvement project.

BE IT FURTHER RESOLVED AND ORDERED that said Board hereby finds, determines and declares that the proposed public improvement project is planned and located in the manner that will be most compatible with the greatest public good and least private injury.

BE IT FURTHER RESOLVED AND ORDERED that said Board hereby finds, determines, and declares that the real property interest hereinafter described in Exhibit "A" and as shown on Exhibit "B", said Exhibits being attached hereto and incorporated herein by this reference, is necessary for the proposed public improvement project.

BE IT FURTHER RESOLVED AND ORDERED that said Board hereby finds, determines, and declares that an amount which it believes to be just compensation therefore has been offered to owners of record by the County to purchase said property interests described in Exhibit "A" and as shown in Exhibit "B" in accordance with Section 7267.2 of the Government Code.

BE IT FURTHER RESOLVED AND ORDERED that County Counsel be and is hereby authorized to prepare, file, and prosecute to completion eminent domain proceedings to acquire for the County of Santa Cruz, the property interests described in Exhibit "A" and as shown on Exhibit "B".

* 4/5 Vote Required

BE IT FURTHER RESOLVED AND ORDERED that County Counsel be and is authorized to obtain an order for immediate possession, and the Auditor-Controller of the County of Santa Cruz is hereby authorized to transfer to the Court deposit trust fund such funds as are required by the County as security for such immediate possession.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this ____ day of _____, 1999, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

CHAIR OF SAID BOARD

ATTEST: _____
Clerk of said Board

Approved as to form:

Simul 12/23/98
Assistant County Counsel

Distribution: County Counsel
Auditor-Controller
Public Works
Real Property

RSLUTN59.EDM

EXHIBIT "A"

Borawski
APN 098-131-11

705

Situate in the county of Santa Cruz, State of California, and described as follows:

Being a portion of the land conveyed to James Robert Borawski by that deed recorded September 6, 1995 in Volume 5724 of Official Records of Santa Cruz County at Page 749, and more particularly described as follows:

PARCEL "A"

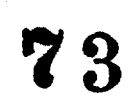
Being an easement for temporary construction purposes over a portion of said lands of Borawski, and more particularly described as follows:

Beginning at a point on of the southern side of the County road known as Highland Way, being the southeast corner of the land conveyed to Ralph C. Marsh et ux., by that deed recorded January 15, 1952 in Volume 426 of Official Records of Santa Cruz County at Page 288, and the northeast corner of said lands of Borawski; thence from said point of beginning along the easterly boundary of said lands of Borawski South 4°00' West 297.57 feet; thence leaving said easterly line North 86°00' West 140.00 feet; thence North 53°26'42" West 193.16 feet; thence North 22°06'40" East 349.45 feet to a point on the southernly boundary of said lands of Marsh and the northerly boundary of said lands of Borawski; thence along said boundaries South 50°30' East 238.51 feet to the point of beginning.

Containing 2.11 acres, more or less.

73

Figure 1



APN: 098-131-10



SUBJECT PROPERTY
LANDS OF BORAWSKI
APN: 098-131-11

SOUTHERLY
PROPERTY BOUNDARY
CREEK

EXISTING BUILDING

APPROX PREVIOUS
D/W LOCATION

FILL
AREA

CUT
AREA

APPROX SLIDE
BOUNDARY

APN: 098-131-73

AREA OF
TEMPORARY CONSTRUCTION EASEMENT

