

RESOLUTION NO. 3900

A RESOLUTION ESTABLISHING THE POLICY OF THE GOVERNING BODY PROVIDING FOR THE IMPROVEMENT OF STORM DRAINAGE WITHIN THE CITY; THE ACQUISITION OF EASEMENTS FOR STORM DRAINAGE IMPROVEMENT PROJECTS; AND RESCINDING RESOLUTION NO. 2916 AND RESOLUTION NO. 3326.

WHEREAS, the Governing Body of the City of Overland Park (the "City") is cognizant of the fact that adequate stormwater drainage is beneficial to the City; and

WHEREAS, the City has limited funds to apply to storm drainage improvements to be constructed at City-at-large expense; and

WHEREAS, it is desirable that a standard policy be established to allocate funds and set priorities for storm drainage improvement projects; and

WHEREAS, the Governing Body of the City further recognizes the need to establish certain operating guidelines and procedures for the acquisition of easements for storm drainage improvement projects; and

WHEREAS, it is desirable that the City establish a policy for easement acquisition that is fair and consistent, yet flexible enough to accommodate the various contingencies surrounding storm drainage improvement projects.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

1. **DEFINITIONS.** That the following definitions apply to this Resolution:
  - a. **Benefitted Property Owners** as referenced herein shall mean those property owners subject to frequent flooding, as well as those property owners abutting or so near an Existing Storm Sewer System or Unimproved Storm Drainage System that they will be benefitted by the Storm Drainage Improvement Project.
  - b. **Existing Storm Sewer Systems** as referenced herein shall mean those constructed storm drainage conveyance systems composed of inlets, pipes or concrete-lined ditches installed in accordance with City standards at the time of construction and accepted for City maintenance or installed prior to the adoption of the City standards but subsequently accepted for City maintenance.
  - c. **Storm Drainage Improvement Projects** as referenced herein shall mean improvements to the capacity and function of Existing Storm Sewer Systems and Unimproved Storm Drainage Systems not to present City standards. This definition does not include the removal of habitable structures.
  - d. **Unimproved Storm Drainage Systems** as referenced herein shall include natural streams, earthen ditches or ditches with improvements.

2. **POLICY FOR CONSTRUCTION.** That the following policy regarding Storm Drainage Improvement Projects be established:
- a. Consideration of Storm Drainage Improvement Projects shall be initiated upon petition by Benefitted Property Owners.
  - b. That priority as to Storm Drainage Improvement Projects undertaken will be established by the following criteria:
    - 1) The feasibility of the project from the economic and engineering design standpoint;
    - 2) The severity of potential flooding and erosion risk to habitable structures and public infrastructure;
    - 3) The availability of funds to pay the City's portion of the project cost; and
    - 4) The degree of interest in such project as manifested by the percent of Benefitted Property Owners that have signed an informal petition which includes an expression of intent to donate easements at no cost to the City. Generally, projects where degree of interest expressed by Benefitted Property Owners is less than 50% shall not be recommended for addition to the City's Capital Improvement Program ("CIP").
  - c. That upon addition of a Storm Drainage Improvement Project to the CIP, the City will:
    - 1) Pay all costs of the project with either City-at large funds, federal funds, county funds or a combination thereof;
    - 2) Provide a storm sewer system or flood control project to existing City standards;
    - 3) Restore and reseed or resod all areas disturbed by construction of the project;
    - 4) Replace landscape trees and shrubs disturbed by the project with nursery stock or compensate for these items in eminent domain;
    - 5) Provide necessary temporary fences during construction; and
    - 6) Replace all permanent fences as part of the contractor's work.
3. **POLICY FOR EASEMENT ACQUISITION.** The following guidelines are hereby established for the acquisition of temporary and permanent easements for Storm Drainage Improvement Projects:

- a. For projects where more than 50% of Benefitted Property Owners have signed an informal petition which includes an expression of intent to donate easements, staff shall acquire easements from those Benefitted Property Owners at no cost to the City. Staff shall make reasonable efforts to acquire remaining easements at no cost to the City from Benefitted Property Owners who are not signatories to the petition. When staff is unable to acquire the remaining easements at no cost to the City, necessary easements shall be acquired by eminent domain, subject to subsection c, below.
  - b. For projects where extenuating circumstances exist, necessary easements shall be acquired by eminent domain, subject to subsection c, below.
  - c. All easement acquisition contemplated by this Resolution shall be carried out in accordance with applicable law. For projects where federal funds are used, the acquisition of easements shall follow the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.
4. Resolution No. 2916 and Resolution No. 3326 are hereby rescinded.

ADOPTED by the Governing Body of the City of Overland Park, Kansas, this 3<sup>rd</sup> day of October, 2011.

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Carl Gerlach, Mayor

ATTEST:

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Marion Cook, City Clerk

APPROVED AS TO FORM:

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Tammy Owens  
Senior Assistant City Attorney