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City to continue eminent domain consideration

April 24, 2012

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The Marshalltown City Council will proceed with discussions to consider invoking eminent domain in connection with an airport expansion project.

During its Monday night meeting, the council discussed provisions to acquire property near the airport to extend the runway to bring it in line with safety standards.

Iowa Code prevents cities from invoking eminent domain without first having multiple hearings to give those whose property is affected a chance to weigh in.

Curt Ward, city attorney, said that the city is doing its utmost to enter into good faith agreements with the owners in hopes of reaching an agreement.

Ward said the purpose for discussing the issue at this time has to do with the code's requirements, which he said are lengthy. Essentially, the code requires the city to talk about acquiring the property then sit down with the property owners and talk about not acquiring it.

"If you sense some tug and pull here, so do I," Ward said.

If negotiations go well, Ward said, the city will not need eminent domain authority.

If they do not go well, it would make little sense to stop the process, start over again to authorize eminent domain and require parties that have already decided they cannot work out an agreement with the city to again attempt to work out an agreement.

"We are just trying to put the ducks in the right order here," he said. "We still want to talk to the property owners about the ways in which we can work together on this project."

All the property owners agreed to a survey.

Leon Lamer, at large councilman, said he became concerned about the project when he discovered it came within a few hundred feet of a family farm.

"I think the timing is wrong," he said. "If we can't sit down across the table and figure out a way to make it fair for everybody, then we shouldn't be out there. We are supposed to be the good party here, and we need to demonstrate that to this family."

Planes would still be able to land at the airport, but would not be up to safety standards.

Bill Grabe, president and CEO of Clapsaddle-Garber Associates, said

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that not bringing the runway up to safety standards would open the city to liability issues.

"If you have an opportunity to bring your airport into compliance with current standards and you don't, there is an issue," he said.

The Federal Aviation Administration will provide 90 percent of the funding for the airport expansion, with the city picking up the bill for the remaining 10 percent.

Grabe said whether the FAA will limit which types of planes can land at the airport if the safety changes are not made is unknown.

Joel Greer, second ward councilman, said the airport is losing business to the Newton airport because of the sub-par runway length.

James Goodman, an attorney representing one of the affected families, said the motion for condemnation is premature. He said he would like to know the reason for the expansion.

"I am unclear as to what additional airplanes this will allow us to have come in," he said. "I hear we are losing business to Newton. I don't know that. The public doesn't that, but that's what being said."

Goodman said he also wanted to know, since the FAA funding is a reimbursement program, if there is a possibility funding will not come through.

The council approved proceeding with eminent domain discussions. Council members Leon Lamer and Bob Schubert voted against the resolution.

"We have no idea what the federal funding will be like in the future and we have no idea what real estate will do in the future," said Bethany Wirin, at large council member. "It could go up. I could go down. I say we move on it now."

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