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AROUND TOWN: Eminent domain fight long, costly and failed

Nov 10, 2017

NOT ONLY DID the city of Marietta lose its eminent domain fight with property owner Ray Summerour, it was a long and expensive journey to get there. And costs are likely to continue to mount.

For the last seven years, the city has been haggling over a spit of land at the corner of Allgood Road and North Marietta Parkway, the home of Brenda's Grocery.

The two-tenths of an acre was among nine parcels the city wanted to turn into Elizabeth Porter Park. Owner Ray Summerour felt \$375,000 would be a fair price. The city first offered \$85,000 and eventually raised that offer to \$152,000. With negotiations nearly a quarter million dollars apart, Summerour's land was condemned. The ensuing dispute wound its way to the Georgia Supreme Court, which decided — on a technicality — that the city of Marietta violated Georgia statute.

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Knowing these long, drawn-out court battles can get expensive, some wondered if the city should have simply met the \$375,000 asking price and been done with it.

An open records request to discover what the court battle cost yielded no information: “Be advised that there are no documents to provide responsive to your request ... — Stephanie Guy, City of Marietta, City Clerk.”

Since the city’s accounting procedures evidently lack the sophistication to determine legal fees incurred from a court fight, AT went straight to the horse’s mouth and rang City Attorney Doug Haynie. After a couple attempts to get the information, Mr. Haynie responded via email:

“The city advises that the costs involving the seven-year matter including appraisal fees, court costs and attorney fees are appx \$155K.”

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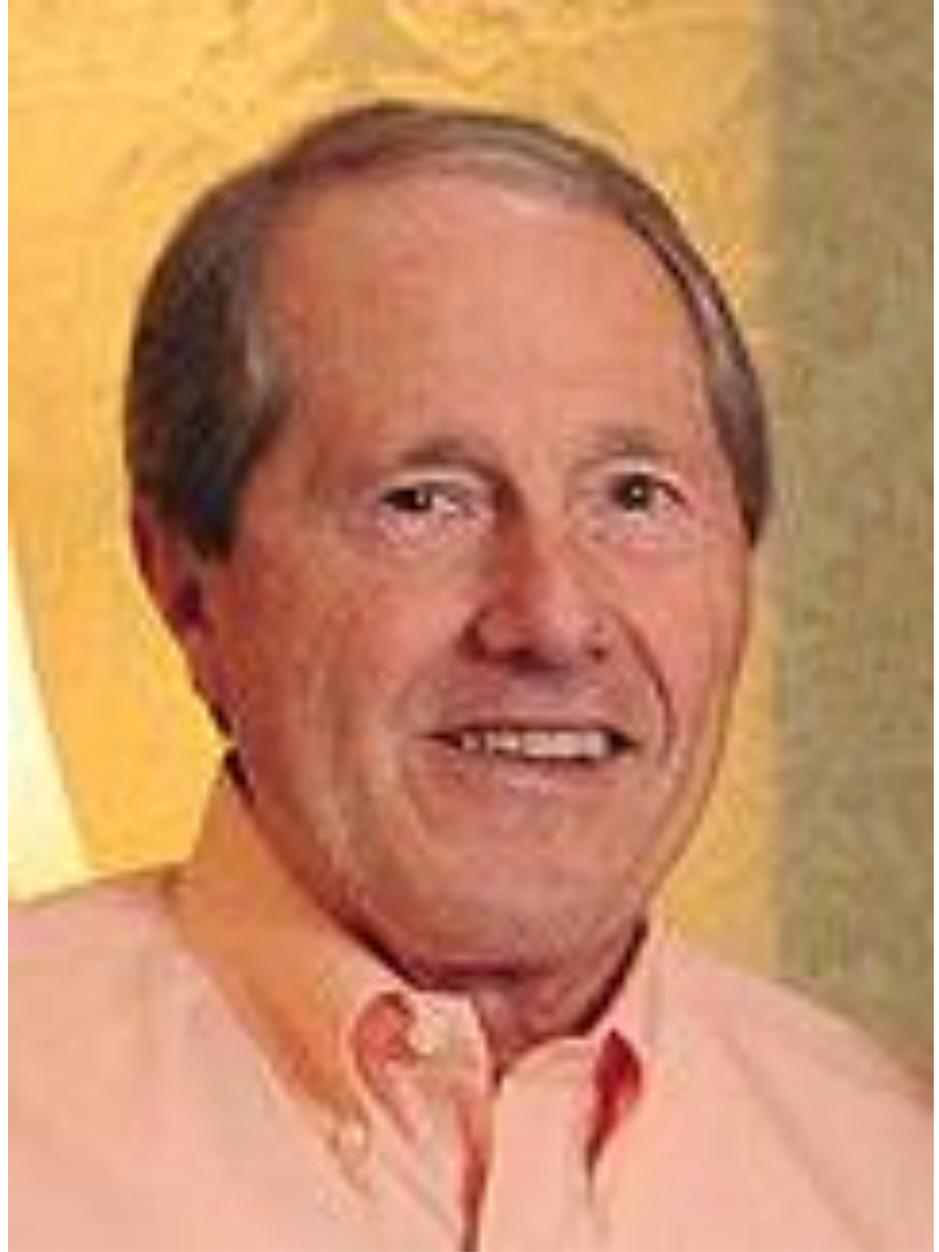
About 15 minutes later, Haynie sent a second email: “Should have also said that much of this was related to the negotiation and acquisition of the adjoining eight properties that make up the park.”

And then in another 10 minutes, a third message: “To clarify, it did not include the purchase price of the other eight but the work to get them under contract for the park.”

So while we may never know how much it cost to pursue Summerour’s land, we do know Mariettans are out \$155,000 and still don’t have the Summerour parcel.

And that technicality? It appears the city and/or its legal representation did not provide Summerour copies or summaries of the city’s appraisals of his land as required by Georgia code. As for the Supreme ruling, Haynie says the justices got it wrong.

“The city believes it follows the exact language of the code section,” Haynie said. “But the Supreme Court said the city was required to furnish the entire appraisal. We respectfully disagree.”



Doug Haynie

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The flub has put us back to Square One. Now that we must start over, Haynie's meter will do so as well.

Kennesaw State University President Sam Olens was guest speaker at a luncheon sponsored by Vinings Bank Thursday. Following are highlights of his talk:

BY THE NUMBERS: "The university is about 150 students short of 36,000. It is 1,500 students fewer than the University of Georgia. (KSU has) 33,000 undergrad students, 3,000 graduate students, 13 colleges, 5,200 students that live on campus over 150 academic programs.



Sam Olens

ON SOUTHERN POLY CONSOLIDATION: For those alum who thought that the consolidation would limit them, limit engineering, architecture, construction management, science and math ... it's had the opposite effect. The colleges on the Marietta campus are our fastest growing colleges. (Marietta campus has between 8,000 and 9,000 students.)

ON WHAT THE PUBLIC IS MISSING: College of Arts has about 160 programs a year for the public to attend. Many of you aren't taking advantage of that. ... I would encourage you to go on our website. Each and every week there are events that you would find fascinating.

ON UNIVERSITY ACCOMPLISHMENTS: The business college (is) the top part-time MBA in the state. The top executive MBA program in the state. No 4 in the country. No. 9 in the world.

We recently had a (pay-scale study) that ranked us fifth in the state out of 41 major colleges for how our students' income compares five and 10 years post-graduation. No. 1 is Tech. No. 2 is Georgia. No. 3 is Emory. No. 4 is Morehouse. KSU is No. 5 ... that means that when our students are five or 10 years out, they're doing great in the marketplace.

We're an R3 institution now, which means we have moderate research. We've doubled the research dollars in the last five years. For the first time ever we had a week where four different faculty got four different NIH or NSF awards in consecutive days.

We now have students from 140 countries.

ON HELPING HOMELESS STUDENTS: I'm thrilled about (a program) called CARE. That is a program for our homeless students. We estimate, in a typical school year, we probably have over 300 students that at some time during the year are homeless, living outside, living in a car, living from friend to friend. We have some foundations and some trustees that have put together money where we have specific residence rooms set aside to help those students with emergency housing. We have pantries at both of our campuses for dry goods, clothes, food to help those students.

ON ATHLETICS: We're D-1. Our volleyball team has two more games this weekend. They're winning the conference at the moment for the second straight year ... Our soccer team that was half freshmen (made it to) the semifinals for the second year in a row. Both of our golf teams finished in the top five in regional competition, one finishing first. Our basketball team starts (Friday) at Clemson. Do not be surprised if we win. Agnus Berenato is one helluva coach. And she is doing a great job for the women's basketball program. Speaking of Clemson, we beat Clemson at Clemson in volleyball three straight sets and we beat Georgia in three straight sets at KSU. Our programs are good and getting better.

ON THE FOOTBALL FREEZE: We also happen to have a football team. It's not everyone who gets me to show up in 19 degree weather and eight inches of snow in Bozeman, Montana. ... the play-by-play announcers were saying, 'This school is only in its third year and they're really playing well, but they've never traveled this far to a game. And the coldest game temperature they've ever played in is 53 and it's 20 right now. And we just don't see how they are going to compete.'

Well, the game is 60 minutes. We controlled the ball 40. We won (against Montana State).

We have won eight straight games. We play Charleston Southern Saturday and if we win that game ... we will be playing Monmouth, who is also undefeated in our conference ... The winner wins the conference. The winner goes to the playoffs.

The good news/bad news is we're going to need people filling the seats when we make that playoff game and if it happens to be home because that game is the weekend of Thanksgiving. So we're going to need the folks who are in town to show up and support those Owls.

ON KIDS TODAY: You know, many of us think of the word millennial and we think self-centered, we think aloof, we think they go from job to job. Let me tell you, you spend time with our students and your perception will totally change. These kids care more than we did at that age. These kids want to make this a much better world. And when you're on that campus ... you can't help but be uplifted that we, in fact, we have a very proud future as a country based upon the students that attend our university."



"Never ... was so much owed by so many to so few," Winston Churchill said. Happy Veterans Day.

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