



Legislation Details (With Text)

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Type: Resolution **Status:** Passed
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On agenda: 8/10/2016 **Final action:** 8/10/2016
Title: Resolution to Authorize the Acquisition, by Negotiation or Condemnation, of Permanent Drainage Easements, Pursuant to § 25.1-100, Et Seq. of the Code of Virginia of 1950, as Amended, From Portions of 51 Mary Peake Boulevard (LRSN 3004056), 53 Mary Peake Boulevard (LRSN 3004057), and 73 Mary Peake Boulevard (LRSN 3004084) for the Mary Peake Drainage Project

Sponsors:

Indexes: Stormwater

Code sections:

Attachments: 1. 51 Mary Peake Exhibit.pdf, 2. 53 Mary Peake Exhibit.pdf, 3. 73 Mary Peake Exhibit.pdf, 4. Presentation

Date	Ver.	Action By	Action	Result
8/10/2016	1	City Council Legislative Session	approved	Pass

Resolution to Authorize the Acquisition, by Negotiation or Condemnation, of Permanent Drainage Easements, Pursuant to § 25.1-100, *Et Seq.* of the Code of Virginia of 1950, as Amended, From Portions of 51 Mary Peake Boulevard (LRSN 3004056), 53 Mary Peake Boulevard (LRSN 3004057), and 73 Mary Peake Boulevard (LRSN 3004084) for the Mary Peake Drainage Project

PURPOSE/BACKGROUND:

The Mary Peake Outfall Ditch is a major drainage ditch that carries stormwater runoff to Newmarket Creek from Mercury Boulevard and properties south of Mercury Boulevard. It also crosses through a portion of the historic Aberdeen Gardens community, along the rear lots west of Mary Peake Boulevard.

After receiving complaints from some Mary Peak area residents about flooding in this area, Public Works hired engineering consultant, URS (now AECOM) to conduct a watershed study, which revealed the Mary Peake Outfall Ditch is a source of flooding in the area because the ditch is undersized and in poor condition.

The proposed project will increase the capacity of the ditch by removing existing silt, widening the bottom, flattening the bank slopes, and removing trees that currently block the channel and impede access for maintenance. A permanent grass access drive will be created on the east side of the ditch to provide for construction access and future maintenance. Additionally, it was discovered that portions of the ditch do not have recorded easements on file.

The project and proposed drainage improvements require easements from 24 parcels. Acquisitions began in October of 2015, and 21 of the 24 have been finalized. However, despite negotiation efforts, the City has been unable to reach final agreements with the following landowners of three (3)

parcels:

Part of LRSN: 3004056
Owner: Heirs of Edward P. and Ruth Mason
Property Description: 51 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 2,250 S.F.
Status: Edward and Ruth Mason died intestate.
Despite diligent efforts, all heirs cannot be identified.

Part of LRSN: 3004057
Owner: Larry E. Carter
Property Description: 53 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 2,250 S.F.
Status: Property owner has been unresponsive since October 2015.

Part of LRSN: 3004084
Owner: Corey T. McGeorge
Property Description: 73 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 1,951 S.F.
Status: Staff addressed property owner's concerns in early May;
however, he has been unresponsive since then.

Condemnation action upon these parcels will not necessitate the displacement of any owners.

It is anticipated the project will be advertised for bids in November, 2016, construction will begin in January, 2017, and completed in May, 2017.

It is recommended that the City of Hampton exercise its eminent domain authority and commence condemnation proceedings upon the three (3) parcels for the listed easements because further attempts are believed to be futile. Nevertheless, if staff is mistaken, they will continue working with each owner after the initial filing of the initial Certificates of Take.

Discussion:

See Purpose/Background above.

Impact:

See Purpose/Background above.

Recommendation:

Approve the Resolution.

WHEREAS, the Mary Peake Outfall Ditch is a major drainage ditch that carries stormwater runoff to Newmarket Creek from Mercury Boulevard and properties south of Mercury Boulevard and crosses through a portion of the historic Aberdeen Gardens community, along the rear lots west of

Mary Peake Boulevard;

WHEREAS, after receiving complaints from some Mary Peak area residents about flooding in this area, Public Works hired engineering consultant, URS (now AECOM) to conduct a watershed study, which revealed the Mary Peake Outfall Ditch is a source of flooding in the area because the ditch is undersized and in poor condition;

WHEREAS, the proposed project will increase the capacity of the ditch by removing existing silt, widening the bottom, flattening the bank slopes, and removing trees that currently block the channel and impede access for maintenance;

WHEREAS, a permanent grass access drive will be created on the east side of the ditch to provide for construction access and future maintenance;

WHEREAS, it was discovered that portions of the ditch do not have recorded easements on file;

WHEREAS, the project and proposed drainage improvements require easements from 24 parcels;

WHEREAS, acquisitions began in October of 2015, and 21 of the 24 have been finalized; however, despite negotiation efforts, the City has been unable to reach final agreements with the following landowners of three (3) parcels:

Part of LRSN: 3004056
Owner: Heirs of Edward P. and Ruth Mason
Property Description: 51 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 2,250 S.F.

Part of LRSN: 3004057
Owner: Larry E. Carter
Property Description: 53 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 2,250 S.F.

Part of LRSN: 3004084
Owner: Corey T. McGeorge
Property Description: 73 Mary Peake Boulevard
Proposed Acquisition: Permanent Drainage Easement = 1,951 S.F.

WHEREAS, condemnation action upon these parcels will not necessitate the displacement of any owners;

WHEREAS, it is anticipated the project will be advertised for bids in November, 2016, construction will begin in January, 2017, and completed in May, 2017; and

WHEREAS, Council has determined permanent drainage easements are necessary to implement the Mary Peake Drainage Project; and it is in the best interest of the City that portions of

the three (3) parcels identified herein be acquired, by negotiation or condemnation, pursuant to § 25.1-100, et seq. of the Code of Virginia of 1950, as amended, for successful implementation of the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hampton, Virginia, as follows:

1. That the Resolution seeking acquisition, by negotiation or condemnation, pursuant to the authority set forth in Sections 25.1-100, et seq. of the Code of Virginia of 1950, as amended, for permanent drainage easements from three (3) parcels for implementation of the Mary Peake Drainage Project is approved;

2. That the City Attorney is authorized to institute proceedings to condemn a portion of the foregoing three (3) parcels; and

3. That a certified copy of this Resolution and aerial photograph shall be recorded in the Office of the Clerk of the Circuit Court for the City of Hampton in the manner as deeds are recorded and indexed in the name of the City of Hampton.