



Legislation Text

File #: 16-0276, Version: 1

Resolution to Authorize the Acquisition, by Negotiation or Condemnation, of Permanent and Temporary Easement Takes (Or Possible Fee Takes), Pursuant to § 25.1-100, Et Seq. of the Code of Virginia of 1950, as Amended, From Portions of Two Parcels - N. Armistead Avenue (LRSN 13002792) and 101 Marsh Loop (LRSN 13002788) - From Trail Creek Community, LLC for the Central Park Trail (Formerly Newmarket Creek Trail) Project

**PURPOSE/BACKGROUND:**

The City of Hampton has received VDOT Revenue Sharing funds to construct a segment of the Central Park Trail (formerly Newmarket Creek Trail) (the "Project"). This walkway is part of a three-mile Master Plan Trail, starting at the Bass Pro Shops located at 1972 Power Plant Parkway and ending at the Air Power Park located at 413 W. Mercury Boulevard (see the attached aerial photograph). The segment of the trail for which condemnation authority is sought (see the circled portion of Segment E of the attachment) comprises 1,900 linear feet of an elevated timber walkway, 12 feet wide, starting at the Air Power Park and terminating at Parcel No. 13002792 further identified below. The timber trail will provide a scenic view of the wetlands and wildlife inhabitants of Newmarket Creek.

Public Works Engineering received bids to construct the trail, and advancement of the Project depends upon the right of way being clear. Negotiations with one property owner for two parcel interests began in February 2016. but remain unresolved because ownership has changed since the initial negotiations, and just recently staff was informed the new owner prefers conveying fee takes as opposed to easement rights. Therefore, staff is continuing to negotiate with the owner, Trail Creek Community, LLC, to obtain the following property interests.

Part of LRSN: 13002792  
Address: N. Armistead Avenue  
Proposed Acquisitions: Permanent linear park easement  
(or possible fee take): ± 9,458 s.f.  
Temporary construction easement  
(or possible fee take): ± 3,158 s.f.

Part of LRSN: 13002788  
Address: 101 Marsh Loop  
Proposed Acquisitions: Permanent linear park easement  
(or possible fee take): ± 9,505 s.f.  
Temporary construction easement  
(or possible fee take): ± 3,551 s.f.

Construction of the Project is anticipated to begin in the fall of 2016 and expected to be completed in

the summer of 2017. If these acquisitions are not obtained in a timely manner, construction will be delayed or stopped; and the City will have to rebid the project, adding several months to the Project timeline and approximately 7 to 10 percent increase to the Project budget. Therefore, it is recommended that, pursuant to § 25.1-100, *et seq.* of the Code of Virginia of 1950, as amended, the City exercise its eminent domain authority to commence condemnation proceedings against the foregoing properties if acquisitions cannot be obtained through negotiation. Staff will continue negotiations with this owner even after Certificates of Take are filed.

**Discussion:**

See Purpose/Background above.

**Impact:**

See Purpose/Background above.

**Recommendation:**

Approve Resolution

**WHEREAS**, the City of Hampton has received VDOT Revenue Sharing funds to construct a segment of the Central Park Trail (formerly Newmarket Creek Trail) (the “Project”);

**WHEREAS**, this walkway is part of a three-mile Master Plan Trail, starting at the Bass Pro Shops located at 1972 Power Plant Parkway and ending at the Air Power Park located at 413 W. Mercury Boulevard (see the attached aerial photograph);

**WHEREAS**, the segment of the trail for which condemnation authority is sought (see the circled portion of Segment E of the attachment) comprises 1,900 linear feet of an elevated timber walkway, 12 feet wide, starting at the Air Power Park and terminating at Parcel No. 13002792 further identified below;

**WHEREAS**, the timber trail will provide a scenic view of the wetlands and wildlife inhabitants of Newmarket Creek;

**WHEREAS**, Public Works Engineering received bids to construct the trail, and advancement of the Project depends upon the right of way being clear;

**WHEREAS**, negotiations with one property owner for two parcel interests began in February 2016. but remain unresolved because ownership has changed since the initial negotiations, and just recently staff was informed the new owner prefers conveying fee takes as opposed to easement rights;

**WHEREAS**, staff is continuing to negotiate with the owner, Trail Creek Community, LLC, to obtain the following property interests.

Part of LRSN: 13002792  
Address: N. Armistead Avenue  
Proposed Acquisitions: Permanent linear park easement

(or possible fee take): ± 9,458 s.f.  
Temporary construction easement  
(or possible fee take): ± 3,158 s.f.

Part of LRSN: 13002788  
Address: 101 Marsh Loop  
Proposed Acquisitions: Permanent linear park easement  
(or possible fee take): ± 9,505 s.f.  
Temporary construction easement  
(or possible fee take): ± 3,551 s.f.

**WHEREAS**, construction of the Project is anticipated to begin in the fall of 2016 and expected to be completed in the summer of 2017;

**WHEREAS**, if these acquisitions are not obtained in a timely manner, construction will be delayed or stopped; and the City will have to rebid the project, adding several months to the Project timeline and approximately 7 to 10 percent increase to the Project budget; and

**WHEREAS**, Council has determined permanent and partial easements, or potentially fee takes, are necessary to implement the Central Park Trail (Formerly Newmarket Trail) Project; and it is in the best interest of the City that portions of the two (2) 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 and partial easements, or potentially fee takes partial fee, from two (2) parcels for implementation of the Central Park Trail (Formerly Newmarket Trail) Project is approved;
2. That the City Attorney is authorized to institute proceedings to condemn a portion of the foregoing two (2) 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.