



Legislation Text

File #: 21-0330, Version: 1

Resolution to Authorize the Acquisition, by Negotiation or Condemnation, of a Fee Take, Pursuant to §§ 25.1-100, *Et Seq.* and 15.2-1901, *Et Seq.* of the Code of Virginia of 1950, as Amended, for Purposes of a Public Road and Associated Utilities.

PURPOSE/BACKGROUND:

Tennis Lane (the "Lane") is a private road, located in the City of Hampton (the "City") off of E. County Street in Phoebus. The City has stormwater and sanitary sewer infrastructure located within the Lane. Other utility services including water and gas run under the Lane. City residents also receive trash services and U.S. Mail delivery along the Lane. To best serve the citizens and to protect, maintain, and potentially upgrade the existing infrastructure, acquisition of the Lane is required. A fee take of the Lane using the City's eminent domain authority is necessary. The proposed fee take area comprises of approximately 7,697 square feet +/- (0.1767 Acres +/-) in accordance with that certain plat entitled "PLAT SHOWING ESTABLISHMENT OF PUBLIC RIGHT OF WAY LOCATED ON TENNIS LA. HAMPTON, VA" made by Sandon S. Rogers, P.E./L.S., City of Hampton, VA, Public Works Engineering, dated November 15, 2021.

Based upon a title examination of the Lane, it is owned by the unknown Heirs of Riddick Barnes. The City has been unable to locate the heirs. There may be other owners that may have an interest but are unknown. Therefore, no one is able to sign a deed transferring the Lane to the City, nor are there any known parties with which the City could negotiate.

Therefore, it is recommended that, pursuant to §§ 25.1-100, *et seq.*, 15.2-1901, *et seq.* and the applicable portions of §33.2-1000, *et seq.* of the Code of Virginia of 1950, as amended, that the City exercise its eminent domain authority to commence condemnation proceedings upon the identified property since the acquisition cannot be obtained through negotiation.

Discussion:

See Purpose/Background above.

Impact:

See Purpose/Background above.

Recommendation:

Conduct public hearing and approve the Resolution.

WHEREAS, Tennis Lane (the "Lane") is a private road, located in the City of Hampton (the "City") off

of E. County Street in Phoebus, which the City has stormwater and sanitary sewer infrastructure located therein;

WHEREAS, the City has proposed to acquire the Lane in order to make the Lane a public road;

WHEREAS, the acquisition of the Lane is necessary to the public health, safety, peace, good order, comfort, convenience, and welfare of the City;

WHEREAS, the City has reviewed the acquisition for purposes of complying with Section 1-219.1, of the Virginia Code and has certified that the acquisition is for the possession, ownership, occupation, and enjoyment of the property by the public, for the purpose of converting the Lane from a private road to a public road;

WHEREAS, City residents currently receive trash services and U.S. Mail delivery along the Lane;

WHEREAS, based upon a title examination, the Lane is purportedly owned by the Unknown Heirs at Law, Devisees, or Successors In Title to Riddick Barnes, who may be deceased or may have conveyed their interest in the property, together with any person unknown to the City who owned an interest in the Lane;

WHEREAS, the title owners of the Lane are unknown and are therefore unable to convey valid title to the Lane, the City is unable to acquire title to the Lane by voluntary negotiations;

WHEREAS, the proposed fee take area of the Lane comprises of approximately 7,697 +/- square feet (0.1767 Acres +/-), in accordance with and as shown on that certain plat entitled "PLAT SHOWING ESTABLISHMENT OF PUBLIC RIGHT OF WAY LOCATED ON TENNIS LA. HAMPTON, VA" made by Sandon S. Rogers, P.E/L.S., City of Hampton, VA, Public Works Engineering, dated November 15, 2021, a copy of which is made a part of this Resolution; and

WHEREAS, to best serve the City's citizens and to protect, maintain, and potentially upgrade the existing infrastructure (stormwater and sanitary sewer), Council has determined that fee take acquisition of the Lane is necessary; and it is in the best interest of the City that the Lane identified herein be acquired by condemnation, pursuant to §§ 25.1-100, *et seq.* and 15.2-1901, *et seq.* of the Code of Virginia of 1950, as amended, since the acquisition thereof cannot be obtained through negotiation.

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

1. That the Resolution seeking acquisition by condemnation (or by negotiation, if possible), pursuant to the authority set forth in §§ 25.1-100, *et seq.*, 15.2-1901, *et seq.* and the applicable portions of §33.2-1000, *et seq.* of the Code of Virginia of 1950, as amended, for a fee take acquisition of the private road located in the City known as Tennis Lane is approved;

2. That the property rights described in Paragraph 1 are to be acquired for the public use of street and roads;

3. The Council hereby approves the public use (public street and roads) for this acquisition in accordance with Section 15.2-1903;
4. That the proposed acquisition is for the public roadway and related facilities and is declared to be necessary for a public use and an authorized public undertaking pursuant to Chapter 19 of Title 15.2 of the Code of Virginia, as amended;
5. That it is necessary to enter upon the property and acquire defeasible title to the Lane prior to the completion of the condemnation proceedings;
6. That the City Attorney, or her designee, is authorized and directed to acquire the property interests for public use by condemnation or other means, and to institute and conduct condemnation proceedings to acquire the Lane in the manner authorized and provided by §§ 25.1-100, et seq., and 15.2-1901, et seq. and the applicable portions of §33.2-1000, et seq. of the Code of Virginia of 1950, as amended; and
7. That a certified copy of this Resolution and the plat entitled "PLAT SHOWING ESTABLISHMENT OF PUBLIC RIGHT OF WAY LOCATED ON TENNIS LA. HAMPTON, VA" made by Sandon S. Rogers, P.E/L.S., City of Hampton, VA, Public Works Engineering, dated November 15, 2021, 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.