



## Legislation Text

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**File #:** ID 21-0351, **Version:** 1

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Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Gavin J. Hirsch and Spouse, Beth M. Goldring Located at 1204 Vance Street in Connection with the Vance-Arlington Connector and Burtner Street Sidewalk Project

Council Priority: Maintain Infrastructure and Provide Sustainable Growth Opportunities

Department: Legal

Council District: 2

Public Hearing: NA

Advertising Date/By: NA

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### **PURPOSE:**

The City seeks to acquire a proposed Permanent Trail Easement (PTE) of 1,014 square and a proposed Temporary Construction Easement (TCE) of 300 square feet of the property owned by Gavin Hirsch and Beth Goldring located at 1204 Vance Street, designated as Parcel No. 0003291 in the Morehead/ Gilmer Township for the Vance-Arlington Connector and Burtner Street Sidewalk Project. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner.

### **BACKGROUND:**

PM attempted to negotiate a purchase within the total appraised value of \$850.00 for the property. A claim report was issued to determine the value of the property. Land values were based on appraisals by independent appraiser, D. Lynn Cable, Certified General Real Estate Appraiser, License No. A4361. The appraiser uses generally accepted appraisal methods and calculates the value based upon the nature of the taking and the square footage taken. PM sent an initial written Offer to Purchase to the property owner on May 29, 2020. PM made several attempts to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to the owner giving them at least thirty (30) days' notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Vance-Arlington Connector and Burtner Street Sidewalk Project is needed for the construction of a new multi-use trail that will serve as a connector from Vance Street to the Downtown Greenway at Bragg Street; installing sidewalk along Arlington Street.

The acquisition necessary for this property is a proposed Permanent Trail Easement (PTE) of 1,014 square feet and a proposed Temporary Construction Easement of (TCE) of 300 square feet located at 1204 Vance-Arlington

Street.

The property is zoned RS-7 (Residential Single-family 7).

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the property to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the property.

**BUDGET IMPACT:**

The funding for this eminent domain action is budgeted in Account Number 471-4502-15.6012 Activity #A 11171. A minimum of \$850.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

**RECOMMENDATION / ACTION REQUESTED:**

City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of Gavin Hirsch and spouse, Beth Hirsch in connection with the Vance-Arlington Connector and Burtner Street Sidewalk Project.