



MAYOR & COUNCIL COMMUNICATION

DATE: December 16, 2014

CONSENT

ITEM #: 10 \$\$

AGENDA ITEM: Diedrich-Rieder Easement Vacation Final Resolution & Reimbursement for Eastern Lot Line Easement

SUBMITTED BY: City Administrator

THROUGH: Mayor Pearson, City Council

REVIEWED BY: Adam Bell, City Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Dean A. Zuleger, City Administrator

FISCAL IMPACT: \$476,592 net future savings benefit to the City of Lake Elmo due to landowners funding 100% construction of the northern ½ of 5th Street. \$19,603.70 realized savings to the City in construction costs, and \$4,200,000 of potential property value development on vacated easement property.

SUMMARY AND ACTION REQUESTED: Ratification of a 50% reimbursement of \$8,070.86 for the vacation of a relocated utility easements (both permanent and construction) from the eastern property line boundary of the Diedrich-Rieder property located on Lake Elmo Avenue. The City originally paid \$16,141.71 for the easements. If removed from the consent agenda, the recommended motion for this action is as follows:

“Move to ratify the 50% Reimbursement Agreement to Vacate the Permanent Public Utility Easement for the Diedrich-Reider property, referenced formally in Resolution No. 2013-106A, at a total of \$8070.86 for past access considerations and future development potential including the land owner construction of 5th Street per developer agreement.”

LEGISLATIVE HISTORY/ANALYSIS: In December of 2013, the Lake Elmo City Council passed Resolution No. 2013-106A vacating both a permanent and construction easement on the Diedrich-Rieder property due to the movement of the permanent easement from the northern and eastern borders to a southern property line border. The City had paid the land owner \$16,141.71 for the easements as a way to facilitate the construction of a sewer easement. The land owner determined that to maximize the development potential of the property that the sewer pipe easement would be more beneficial at the southern boundary and the City determined that there was a project cost savings to moving the easement to the south due to less pipe needed and construction/grading and restoration costs due to depth of the installation. The land owner complied quickly by signing right of way access documents and right of way survey documents for the construction of the sewer line that would also function as 5th Street in the future.

The original resolution noted that the City would negotiate the repayment of the easement with a goal of recovering 100%, but that the landowners thought that some consideration should be given for the development value, savings to the City and expedient access to the right of way for construction which was critical for the reimbursement of MNDEED Sewer Grant of \$1 million. The final motion on this issue did not contain the word “negotiated easement purchase funds and thus, the ratification action is needed to close the issue.

After 8 months of discussions about the reimbursement for the relocation of the northern easement and the lack of utility of the City holding the eastern easement – coupled with the landowner’s agreement to build 5th Street at a cost of \$484,663.00, the City agreed to a reimbursement settlement of 50% or \$8,070.86 to the landowner.

The rationale for the 50% reimbursement settlement is as follows:

- 50% is more than the payment actual cost of the total of the eastern easement. The eastern easement would not be needed by the City for any utility or road function. (Note: if the City was reimbursed for only the eastern easement the repayment would have only been \$5390.33).
- The relocation of the northern easement to the southern boundary represented an effective swap of land to be used for the same utility / street purpose but maximize the development potential for the landowner at an estimate of 12 homes x\$350,000 per home or a total of \$4,200,000.;
- The speed and cordiality that the landowner exercise to allow for right of way access and agreement to the right of way easement allowed the sewer project to move forward in a fashion to meet the MNDEED \$1 million grant deadline;
- The City realized an approximate \$19,603.70 net construction savings by the moving of the easement from the northern to the southern property line;
- The property owner and affiliated developers have agreed to self-fund the construction of 5th Street at a November 2014 cost estimate of \$484,663 and provide critical drainage easements at no cost for the south ½ construction of 5th Street in 2015.

BACKGROUND INFORMATION (SWOT):

Strengths	Net savings / economic benefit in moving the easement from the northern boundary to the southern boundary
Weaknesses	None.
Opportunities	The addition of 12 additional housing lots at an estimated value of \$4.2 million
Threats	Landowner would not have been agreeable to southern right of way access / easement, self-funding the construction of 5 th street, and the granting of drainage considerations needed for the development of 99 lots in two developments.

RECOMMENDATION: Based on the aforementioned, the staff recommends and appropriate guiding motion if this item is removed from the consent agenda:

“Move to ratify the 50% Reimbursement Agreement to Vacate the Permanent Public Utility Easement for the Diedrich-Reider property, referenced formally in Resolution No. 2013-106A, at a total of \$8070.86 for past access considerations and future development potential including the land owner construction of 5th Street per developer agreement.”