



MAYOR AND COUNCIL COMMUNICATION

DATE: 11/06/2013

CONSENT

ITEM #: 12

AGENDA ITEM: Approve Resolution Nos. 2013-90A & 2013-90B, Resolutions Calling For Public Hearing To Vacate Easements
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Dave Snyder, City Attorney
Jack Griffin, City Engineer

SUGGESTED ORDER OF BUSINESS

- Introduction of Item Staff
- Report/Presentation City Clerk
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to approve two related resolutions. The first is Resolution No. 2013-90A, A Resolution Calling For Public Hearing To Vacate Easement for the Permanent Public Utility Easement and Agreement. As part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action:

“Move to approve Resolution No. 2013-90A, A Resolution Calling For Public Hearing To Vacate Easement”

In addition, Council is also respectfully requested to approve as part of the Consent Agenda Resolution No. 2013-90B, A Resolution Calling For Public Hearing To Vacate Easement for the Temporary Construction Easement and Agreement. Again, as part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action: by taking the following action:

“Move to approve Resolution No. 2013-90B, A Resolution Calling For Public Hearing To Vacate Easement”

FINANCIAL IMPACT: The consideration given for the initial easements was \$16,141.71. City staff is working out the details of the repayment of those funds to the City in regards to the location change. Specific questions about the financial impact should be directed to the Finance Director.

BACKGROUND INFORMATION: On April 19, 2013 the City obtained permanent and temporary easements from Tammy Diedrich and Gerhard Rieder for consideration as part of the Lake Elmo sewer and water infrastructure project. Those easements were subsequently recorded in the Washington County Property Records. A copy of those recorded easements is attached to this memo.

The location of the easements was changed at the request of the land owners to facilitate development and make for more efficient infrastructure placement. New easements with the updated information were obtained by staff; however the city has been requested to vacate the previously recorded easements.

STAFF REPORT: Pursuant to Minn. Stat. §§ 412.861 and 462.358, subd. 7, a city may vacate a public utility easement in the same manner as vacating streets. By law, in order to vacate a recorded easement, Council must hold a public hearing on the vacation and then pass a resolution vacating the easement. Presently before the council is a resolution calling for the required public hearing. Notice of the hearing is required to be published and posted by the City Clerk at least two weeks prior to the hearing and mailed by the City Clerk to affected property owners at least 10 days prior to the hearing. The soonest that a public hearing can be held is on December 3, 2013 at 7:00 p.m.

A resolution granting a vacation commenced solely on the initiative of the city council requires a four-fifths majority vote in favor of the resolution. The call for the public hearing only needs a simple majority vote. Both the City Engineer and City Attorney have reviewed this process.

RECOMMENDATION:

Staff recommends the City Council, as part of the Consent Agenda, approve Resolution No. 2013-90A, A Resolution Calling For Public Hearing To Vacate Easement for the Permanent Public Utility Easement And Agreement. As part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action:

“Move to approve Resolution No. 2013-90A, A Resolution Calling For Public Hearing To Vacate Easement”

In addition, staff recommends Council approve, as part of the Consent Agenda, Resolution No. 2013-90B, A Resolution Calling For Public Hearing To Vacate Easement for the Temporary Construction Easement and Agreement. Again, as part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action: by taking the following action:

“Move to approve Resolution No. 2013-90B, A Resolution Calling For Public Hearing To Vacate Easement”

ATTACHMENTS:

- 1) Resolution No. 2013-90A, A Resolution Calling For Public Hearing To Vacate Easement
- 2) Resolution No. 2013-90B, A Resolution Calling For Public Hearing To Vacate Easement
- 3) Public Notice to be published
- 4) Recorded Diedrich-Rieder Public Utility Easement and Agreement