



LEGAL DIVISION
(217) 384-2464
FAX: (217) 384-2460

STEPHEN HOLZ
City Attorney

JACK WAALER
Special Counsel

Memorandum

DATE: August 1, 2003
TO: Bruce Walden
FROM: Jack Waaler
RE: Street Vacation Ordinances

Public Act No. 93-0383 was signed by the Governor on July 25, 2003, and it becomes effective immediately, so the two street vacation ordinances that are to be acted upon Monday night, August 4, 2003, need to be revised to accommodate the requirements of Public Act No. 93-0383.

Public Act No. 93-0383 requires that an ordinance which vacates public right of way must provide a legal description or PIN of the parcel(s) acquiring title to the vacated property. As you know, Section 5/11-91-2 of the Municipal Code provides:

“Except in cases where the deed, or other instrument, dedicating a street or alley, or part thereof, has expressly provided for a specific devolution of the title thereto upon the abandonment or vacation thereof, whenever any street or alley, or any part thereof, is vacated under or by virtue of any ordinance of any municipality, the title to the land included within the street or alley, or part thereof, so vacated, vests in the then owners of the land abutting thereon, in the same proportions and to the same extent, as though the street or alley has been dedicated by a common law plat (as distinguished from a statutory plat) and as though the fee of the street or alley had been acquired by the owners as a part of the land abutting on the street or alley.”

Thus, I have revised the ordinance vacating Boyden Street and the ordinance vacating Fish Alley and that portion of Elm Street as required by the County Agreement to recite the PIN's of all parcels abutting on the vacated right of way.

ORDINANCE NO. 2003-07-076

AN ORDINANCE VACATING A PORTION OF ELM STREET AND A
PORTION OF FISH ALLEY

WHEREAS, in an agreement with the County of Champaign, Illinois, relating to the remodeling and expansion of the County Courthouse, which agreement was approved by the City Council in Ordinance No. 2001-03-031, the City agreed that the vacation of those portions of Bennett Street, Elm Street, and those portions of Grape Alley and Fish Alley as described in the agreement, was in the best interests of the public by facilitating the expansion and remodeling of the County Courthouse. (A slightly different version of the said agreement was approved previously in Ordinance No. 2000-11-129, but was not accepted by the County and the agreement approved in Ordinance No. 2001-03-031 is the final version of the agreement as approved by both parties); and

WHEREAS, in Ordinance No. 2000-12-150, the following parcels labeled as such and depicted on the recorded Boundary Survey (2001R06202) attached hereto as Exhibit "A", were vacated, to wit: Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10; and

WHEREAS, only Parcels 11 and 12 on the said recorded Boundary Survey have not been vacated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The following described portion of Elm Street and the following described portion of Fish Alley are hereby vacated, such being determined to be no longer required by the City of Urbana for street or alley right of way purposes, and the City, being relieved of the further burden of maintaining such rights of way, the public interest shall be subserved by vacating the same, to wit, Parcels 10 and 11 as shown on the recorded Boundary Survey (2001R06202), a copy of which is attached hereto as Exhibit "A".

PARCEL 10

A portion of Fish Alley right-of-way between Vine Street and Bennett Avenue to be conveyed to the County of Champaign, Illinois at some later date, the perimeter of which is more particularly described as follows:

Beginning at the southwest corner of Lot 19 in the original Town of Urbana as filed for record in Deed Record Book "A" at Page 3 in the Office of the Recorder of Champaign County, Illinois; thence North 88 Degrees 39 Minutes 00 Seconds East along the South line of said Lot 19 and the South line of Lot 17 in said original Town of Urbana, said line also being the North right-of-way line of Fish Alley as shown on the Plat of said original Town of Urbana, a distance of 81.46 feet to an iron pipe survey monument found; thence South 01 degrees 31 minutes 44 seconds West, a distance of 12.02 feet to the South right-of-way line of said Fish Alley, said line also being the North line of Lot 67 in said original Town of Urbana; thence South 88 degrees 39 minutes 00 seconds West along the South right-of-way line of said Fish Alley, said line also being the North line of said Lot 67 and the North line of Lot 65 in the original Town of Urbana, a distance of 80.89 feet to an iron pipe survey monument found at the Northwest corner of said Lot 65; thence North 01 degrees 11 minutes 54 seconds West, a distance of 12.00 feet to the point of beginning, containing 980 square feet, more or less, all as shown on the accompanying Plat, all situated in Urbana, Champaign County, Illinois.

PARCEL 11

A portion of Elm Street right-of-way between Vine Street and Bennett Avenue to be conveyed to the County of Champaign, Illinois at some later date, the perimeter of which is more particularly described as follows:

Commencing at the Southwest corner of Lot 65 in the original Town of Urbana as filed for record in Deed Record Book "A" at Page 3 in the Office of the Recorder of Champaign County, Illinois; thence North 01 degrees 11 minutes 52 seconds West along the West line of said Lot 65, a distance of 11.50 feet for the point of beginning; thence North 01 degrees 11 minutes 52 seconds West along the West line of said Lot 65, a distance of 6.00 feet to an iron pipe survey monument found; thence, North 88 degrees 27 minutes 16 seconds East parallel with and 17.50 feet North of the South line of said Lot 65, a distance of 53.50 feet to an iron pipe survey monument found; thence South 25 degrees 01 minutes 10 seconds West, a distance of 6.71 feet; thence South 88 degrees 27 minutes 16 seconds West parallel with and 11.50 feet North of the South line of said Lot 65, a distance of 50.54 feet to the point of beginning, containing 310 square feet, more or less, all as shown on the accompanying plat, all situated in Urbana, Champaign County, Illinois.

Section 2. The various elements of consideration as set forth in the agreement between the City and County is adequate compensation for the benefits accruing to the County by virtue of the vacation of the street and alley herein.

Section 3. The following listed parcels which abut on the public right-of-way herein vacated will, by operation of law, pursuant to the provisions of Section 5/11-91-2 of the Illinois Municipal Code and this ordinance, acquire title to the vacated property:

92-21-17-209-009
92-21-17-209-007

Section 4. Title to the vacated rights of way shall vest in the County of Champaign as abutting owner subject to the easements, if any, for public utilities to operate, maintain, renew and reconstruct the facilities as now existing on, over or under that part of the rights of way herein vacated, unless and until the County of Champaign, Illinois shall cause the rearrangement or removal or relocation of said facilities, and shall pay and be responsible for all the reasonable costs and expenses as shall be incurred in association therewith.

Section 5. Furthermore, to insure against any defects in transferring to the County of Champaign any and all incidents of legal ownership in the rights of way herein vacated, the Mayor of the City of Urbana is authorized to execute and deliver to the County of Champaign, Illinois, a Quit Claim Deed conveying to the County of Champaign, Illinois all of the right, title and interest of the City of Urbana in the following parcels as shown on the recorded Boundary Survey Plat: Parcels 10 and 11 subject to existing easements.

Section 6. The City Clerk of the City of Urbana, Illinois, is directed to record a certified copy of this ordinance with the Recorder of Champaign County.

This Ordinance is approved by three-fourths (3/4th's) vote of the Alderpersons of the City Council of the City of Urbana, Illinois, at a regular meeting of the Council.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Tod Satterthwaite, Mayor