

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 9058 authorizing relinquishment of the public utility easement recorded under King County Recording Number 7610270788, in consideration for the granting of a 5-foot-wide public utility easement, across two parcels at 1005 and 1015 104th Avenue SE in Bellevue, the granting and recording of said easement being deemed in the best interest of the public.

FISCAL IMPACT

Relinquishing this surplus portion of the utility easement has no fiscal impact to the City. The easement was originally acquired by the City at no cost. There are no current provisions to collect administrative processing fees for utility easement relinquishments.

STAFF CONTACT

Nora Johnson, Director, 452-4167

Max Jacobs, Real Property Manager, 452-4182

Civic Services Department

Nav Otal, Director, 452-2041

Andrew Lee, Deputy Director, 452-7675

Utilities Department

POLICY CONSIDERATION

Bellevue City Code/State law:

- Under Bellevue City Code 4.32.070 (and consistent with RCW 35.94.040), whenever the city shall determine, by council resolution, that any lands, property or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then the council by resolution and after a public hearing may cause such lands, property or equipment to be sold, leased, or conveyed. Such resolution shall state the fair market value and such other terms and conditions for such disposition as the council deems to be in the best public interest.

BACKGROUND

The proposed relinquishment area consists of a portion of one public utility easement that is no longer needed by the City. Following is a timeline of activities related to this easement and how it was created:

- The City originally acquired 103rd Avenue SE as right-of-way at no cost through a dedication within a plat in 1890.
- Upon request by a developer who was re-platting adjacent property, the City vacated the right-of-way in 1976 (Ordinance No. 2350), reserving an easement for utility purposes over the entire 60-foot width of 103rd Avenue SE (King County Recording Number 7610270788). This public utility easement provides the right to install, maintain and operate water and sewer pipelines, along with other types of public utilities, including electrical wires. The recording did not contain a separate legal description. Since this portion of right-of-way was never improved, under the "non-user" statute that applied to street dedications within plats between 1890 and 1895, the City was required to vacate the unused right-of-way without compensation.
- In August 2014, the owner of parcels at 1005 and 1015 104th Avenue SE submitted a short plat application to create three separate lots from the two combined parcels for the purpose of

developing individual single-family homes on each new lot. The short plat is now complete. A 30-foot wide portion of the 103rd Avenue easement is located on these two parcels and the City has existing storm water facilities adjacent to the westerly property line. The property owner has asked the City to relinquish a portion of the easement so the homes may be built up to the maximum allowable building area. The City has determined that the easterly 25 feet of the easement is no longer needed, but the City would need the westerly five feet of the original easement for the storm water facilities.

- If Council approves the easement relinquishment, the property owner will grant a five-foot easement which will be documented by a separate, free-standing recorded easement. This free standing recorded document is in the best interest of the City because it will provide clarity as to the location and legal description of the easement.

The City's current process for considering utility easement relinquishments requires three steps by the City Council: declaration that the easement is surplus, a public hearing, and Council action on the relinquishment. On November 16, 2015, Council declared a portion of the subject easement surplus to the City's needs and no longer required for providing continued public utility service. Council later held a public hearing, on December 7, 2015, as the required prerequisite to authorizing relinquishment of the utility easement. During discussion following the public hearing, Council raised questions about the proposed relinquishment and how it was being processed. Following are responses to those questions.

1. What is the fair market value of the easement area? The fair market value of the easement area proposed to be relinquished has not been appraised.
2. Should the Resolution reflect the compensation or other consideration received by the City? The Resolution has been updated to be consistent with city code and state law.
3. How did the City acquire the easement? Was it acquired for public utility purposes? These questions are answered within the timeline above.
4. Did the City recover the cost to process this relinquishment? The City currently has no established fee to process easement relinquishments. However, staff is developing procedures on the issue of cost recovery, which will be presented to Council for comments and direction in 2016.

Staff now requests Council action on the proposed Resolution authorizing the relinquishment of the easement bearing King County Recording Number 7610270788, in exchange for the applicant's grant to the City of a new five-foot utility easement. A draft resolution is included for your consideration. Council may wish to adopt the resolution as presented. Council may elect, but is not required to, add additional terms and conditions as permitted by the statute. If Council elects to add additional conditions or terms, a resolution will be brought back at a later date for final passage.

EFFECTIVE DATE

If adopted by Council, this Resolution becomes effective immediately.

OPTIONS

1. Adopt the Resolution authorizing relinquishment of the public utility easement recorded under King County Recording Number 7610270788, in consideration for the granting of a 5-foot-wide public utility easement, across two parcels at 1005 and 1015 104th Avenue SE in Bellevue, the granting and recording of said easement being deemed in the best interest of the public.
2. Do not adopt the Resolution and provide alternative direction to staff.

RECOMMENDATION

Option 1.

MOTION

Move to adopt Resolution No. 9058 authorizing relinquishment of the public utility easement recorded under King County Recording Number 7610270788, in consideration for the granting of a 5-foot-wide public utility easement, across two parcels at 1005 and 1015 104th Avenue SE in Bellevue, the granting and recording of said easement being deemed to be in the best interest of the public.

ATTACHMENTS

1. Easement Exhibit Map
2. Vicinity Map
3. Proposed Resolution No. 9058

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

Copies of proposed easement relinquishment and proposed new easement documents