

Adopted as follows:

Yeas — Council Members Brown, Cockrel, Jr., Jenkins, Jones, Kenya, Spivey, Tate, Watson, and President Pugh — 9.

Nays — None.

*WAIVER OF RECONSIDERATION (No. 13) per motions before adjournment.

**Department of Public Works
City Engineering Division**

October 7, 2011

Honorable City Council:

Re: Petition No. 1028 — Greektown Casino, request to encroach into the public rights-of-way with the new valet garage.

Petition No. 1028 of "Greektown Casino" whose address is 555 E. Lafayette Avenue, Detroit, MI 48226 request permission to encroach into Macomb Street, 50 feet wide, 16.00 feet with a cantilever parking structure with an additional 2.00 feet for decorative façade at least 17.00 feet above grade, 2.00 feet into the east-west public alley, 20 feet wide, with caissons and parking structure, and a pedestrian bridge 25.00 feet wide and at least 17.00 feet above grade, and into Monroe Street, 50 feet wide, with a pedestrian bridge 25.00 feet wide and least 17 feet above grade, also a reinforced underground caisson for the pedestrian bridge in the area of Macomb Street, 50 feet wide, Monroe Street, 50 feet wide, Beaubien Avenue, 60 feet wide, and St. Antoine Avenue, 50 feet wide.

The encroachment petition was referred to the City Engineering Division — DPW for investigation and report. This is our report.

Necessary permits will have to be obtained from City Engineering Division — DPW Permit Bureau for any street or alley construction, backfill, or occupancy of the City rights-of-way to install non-standard materials.

DTE Energy — MichCon Gas report no objections to the property change provided that an easement of the full width of the public right-of-way of Monroe Street to St. Antoine is reserved for utility easement, and must be free from any obstructions. If petitioner cannot meet these qualifications please contact MichCon Gas Company Improvement Department at 313-389-7261 for estimate cost of abandoning, removing, relocation, or rerouting DTE's facilities.

DTE Energy — Electric Division reports an estimated cost of \$600,000.00 for the removing and/or rerouting such services.

The Public Lighting Department (PLD) reports having a street lighting circuit and high voltage underground primary feeder going through the area where the petitioner requested an encroachment. PLD requires 24-hrs. vehicle access to this site to perform circuit maintenance. No struc-

ture can be built over PLD installations. As per PLD requirements, any structure proposed to be built shall maintain a minimum of 10 feet horizontal clearance for the overhead PLD lines and installations and shall maintain a minimum of 3 feet vertical clearance and 12 inch vertical clearance from the PLD conduit bank and manholes. The contractor will be liable for any damages to any PLD underground or overhead facilities.

AT&T Telecommunication reports having underground conduits in Macomb Street (north of Center) and aerial cable in the alley (on the south side) that will be in conflict with the pedestrian bridge and demo/rebuild of 569 Monroe. Please contact AT&T Engineer to resolve.

Comcast Cablevision report an estimate cost of \$500.00 for the removing and/or rerouting such services.

Traffic Engineering Division — DPW reports no objections to the encroachments, provided that the petitioner/owner maintains an unobstructed minimum sidewalk width of 6.00 feet and vertical clearance of 17.00 feet.

The City Engineering Division — Survey Bureau — DPW received a letter from Greektown Casino dated September 29, 2011 and signed by Michael A. Puggi, President and CEO agreeing to be responsible for any and all cost for the relocation and rerouting of facilities that relate to the petition No. 1028, and the construction of the New Valet Parking structure.

All other city departments and privately-owned utility companies have requested that the petitioner make use of the "MISS DIG" facilities before any construction, backfill, or occupancy of the City rights-of-way to install non-standard materials in the public (street or alley) rights-of-way. Should damages to the utilities occur, the petitioner shall be liable for all claims and damages related to the encroachment installation.

An appropriate resolution, granting the encroachments, is attached for consideration by your Honorable Body.

Respectfully submitted,
RICHARD DOHERTY

City Engineer

City Engineering Division—DPW
By Council Member Brown:

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "Greektown Casino and assigns", to install and/or maintain encroachments of a 16 feet wide strip into Macomb Street, 50 feet wide, with a cantilever parking structure with an additional 2.00 feet for decorative façade at least 17.00 feet above grade, 2.00 feet into the east-west public alley, 20 feet wide, with caissons and parking structure, and a pedestrian bridge 25.00 feet wide and at least 17.00 feet above grade, a pedestrian bridge 25.00 feet wide over

Monroe Street, 50 feet wide, and at least 17 feet above grade, and a reinforced underground caisson into the south side of Monroe Street, 50 feet wide, said public rights-of-way being nearby or adjoining property described as follows:

Lying within the Southside of Macomb Street, 50 feet wide, between St. Antoine Avenue, 50 feet wide, and Beaubien Avenue, 60 feet wide, adjacent to the North of Lots E, F, G and H in the "Plat of a part of the Beaubien Farm" in the City of Detroit as surveyed into Townlots for the proprietors by John Mullett Surveyor July 1831 recorded January 13th 1835 as recorded in Liber 6, Pages 475-8, City Records, Wayne County Records; and North of Lots 5 through 9, both inclusive, in the "Plat of the Antoine Beaubien Farm" April 22nd 1846 as recorded in Liber 27, Pages 197-8, Deeds, Wayne County Records.

Public Alley Encroachments

Also, lying within the north portion of the East-West public alley, 20 feet wide, between St. Antoine Avenue, 50 feet wide, and Beaubien Avenue, 60 feet wide adjacent to the South of Lots E, F, G and H in the "Plat of a part of the Beaubien Farm" in the City of Detroit as surveyed into Townlots for the proprietors by John Mullett Surveyor July 1831 recorded January 13th 1835 as recorded in Liber 6, Pages 475-8, City Records, Wayne County Records; and South of Lots 5 through 9, both inclusive, in the "Plat of the Antoine Beaubien Farm" April 22nd 1846 as recorded in Liber 27, Pages 197-8, Deeds, Wayne County Records;

Pedestrian Bridge Encroachment

Also, lying within the East-West public alley, 20 feet wide, between St. Antoine Avenue, 50 feet wide, and Beaubien Avenue, 60 feet wide adjacent to the East 25.00 feet of Lot 7 (on the north and south side of said public alley) in the "Plat of the Antoine Beaubien Farm" April 22nd 1846 as recorded in Liber 27, Pages 197-8, Deeds, Wayne County Records;

Pedestrian Bridge Encroachment

Also, lying within Monroe Street, 50 feet wide, between St. Antoine Avenue, 50 feet wide, and Beaubien Avenue, 60 feet wide adjacent to the East 25.00 feet of Lot 7 (on both sides of said Monroe Street) in the "Plat of the Antoine Beaubien Farm" April 22nd 1846 as recorded in Liber 27, Pages 197-8, Deeds, Wayne County Records;

Encroachment(s) to consist of "permanently" (meaning more than thirty days, or other long-term duration) installed and/or existing within public rights-of-way, nearby or adjacent to the above-described property;

Provided, That nothing in this resolution shall be construed as giving any authority, permission or grant to the permittee for any part of the 16.00 feet wide encroachment strip into Macomb Street, 50 feet

wide, with a cantilever parking structure with an additional 2.00 feet for decorative façade, 2.00 feet into the east-west public alley, 20 feet wide, with caissons and parking structure, and a pedestrian bridge 25.00 feet wide and at least 17.00 feet above grade, a pedestrian bridge 25.00 feet wide over Monroe Street, 50 feet wide, at least 17 feet above grade, and a reinforced underground caisson for the pedestrian bridge in Monroe Street, 50 feet wide that is placed above the surface or underground rights of privately-owned property. Enforcement of violations of fire safety regulations and buildings code is the responsibility of the Fire Marshal and Buildings, Safety Engineering and Environmental Department. The petitioner shall apply to the Buildings, Safety Engineering and Environmental Department for approval and permits for the 16.00 feet wide encroachment strip into Macomb Street, 50 feet wide, with a cantilever parking structure with an additional 2.00 feet for decorative façade, 2.00 feet into the east-west public alley, 20 feet wide, with caissons and parking structure, and a pedestrian bridge 25.00 feet wide and at least 17.00 feet above grade, and a pedestrian bridge 25.00 feet wide over Monroe Street, 50 feet wide, at least 17.00 feet above grade, and a reinforced underground caisson for the pedestrian bridge in Monroe Street, 50 feet wide encroachments (if necessary); and further

Provided, It is the intention of this resolution to authorize the City Engineering Division — DPW (prior to the issuance of "encroachment" permits) to act in behalf of the city to require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans and/or surveys (containing construction details and distances from property lines) of the 16.00 feet wide encroachment strip into Macomb Street, 50 feet wide, with a cantilever parking structure with an additional 2.00 feet for decorative façade, 2.00 feet into the east-west public alley, 20 feet wide, with caissons and parking structure, and a pedestrian bridge 25.00 feet wide and at least 17.00 feet above grade, a pedestrian bridge 25.00 feet wide over Monroe Street, 50 feet wide, at least 17.00 feet above grade, and a reinforced underground caisson for the pedestrian bridge in Monroe Street, 50 feet wide. Also, the City Engineering Division — DPW may require the permit applicant to secure approval(s) of said encroachments from Wayne County, the State of Michigan, any city departments (including city commissions, authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies are specifically enumerated in this resolution or not; and further

Provided, That an easement of the full width of the public right-of-way of Monroe Street between St. Antoine and Beaubien is reserved for utility easement, and must be free from any obstructions, and if petitioner cannot meet these qualifications please contact MichCon Gas Company Improvement Department at 313-389-7261 for estimate cost of abandoning, removing, relocation, or rerouting DTE's facilities; and further

Provided, That a 24-hrs. vehicle access to this site to perform circuit maintenance is maintained. No structure can be built over PLD installations. As per PLD requirements, any structure proposed to be built shall maintain a minimum of 10 feet horizontal clearance for the overhead PLD lines and installations and shall maintain a minimum of 3 feet horizontal clearance and 12 inch vertical clearance from the PLD conduit bank and man-holes. The contractor will be liable for any damages to any PLD underground or overhead facilities; and further

Provided, That if there is a cost for removing and/or rerouting of said utility installations in said requested area the petitioner and its assigns/heirs will pay all cost, and further

Provided, That by approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the streets or alley, and at all times, DWSD, its agents or employees, shall have the right to enter upon the streets or alley to maintain, repair, alter service, inspect, or install its facilities. All cost incident to the damaging, dismantling, demolish, removal and replacement of structures or other improvements herein permitted and including in gaining access to DWSD shall be born by the petitioner. All cost associated with gaining access to DWSD facilities which could normally be expected had the petitioner not encroached into the streets or alley shall be born by DWSD; and further

Provided, That all construction performed, if any, under this petition shall not be commenced until after (5) five days written notice to DWSD. Seventy-two (72) hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and further

Provided, That any such Construction under this petition is subject to inspection and approval by DWSD forces. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner; and further

Provided, That if DWSD facilities located within the streets or alley shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all cost incident to the repair, replacement

or relocation of such broken or damaged DWSD facilities; and be it further

Provided, That the petitioner shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD facilities; and be it further

Provided, That at any time in the future or present the petitioner shall request removal and/or relocation of DWSD facilities in the street being encroached upon the petitioner agrees to pay all cost for such removal/relocation; and be it further

Provided, That the petitioner has, concurrently herewith filed with the Finance Department and/or City Engineering Division — DPW an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and faithful or unfaithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages, or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, That said permittee shall be subject to any tax under the provision of the General Property Tax Act, which may be levied against it pursuant to law; and further

Provided, That no other rights in the public streets, alley or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to City Engineering Division — DPW at the permittee sole cost and expense; and further

Provided, That, if not already a member, the petitioner shall apply to become a participating member of the "MISS DIG" organization; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department(s) are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or city policies (governing the placement of encroachments in the public rights-of-ways) are amended to provide for levying thereafter, of fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or Code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and accept said permits on the conditions

hereby imposed, and in the event said permittee shall contest the validity of said Charter, or Code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That installation and maintenance of the encroachments referred to herein shall be construed as acceptance of this resolution by the permittee; and further

Provided, That this encroachment permits shall not be assigned or trans-

ferred by the permittee, excepting by transfer of the title to the building, without the written approval of the City Council; and further

Provided, That a minimum sidewalk width of 6.00 feet and a vertical clearance of 17.00 feet clear of sidewalk is maintained at all times and the access of the existing ADA ramps is maintained at all times; and be it further

Provided, That all necessary permits for the encroachments (caissons under and above ground cantilever building, pedestrian bridge, and reinforced caisson) are obtained; and be it finally

Provided, That all requirements required herein having been met by petitioner, the City Clerk shall within 30 days of City Council's approval of this encroachment, record a certified copy of this resolution with the Wayne County Register of Deeds.

