

Provided, That the encroachment into the Adams Avenue right-of-way shall maintain the proper clearance from any and all Detroit Edison facilities; and further

Provided, That Detroit Athletic Club or its assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, whenever it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for construction of encroachments such work shall be according to detailed permit application drawings prior to any public right-of-way construction; and further

Provided, That the necessary permits shall be obtained from the City Engineering Division — DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with plans submitted to and approved by these departments; including the Public Lighting Department (if necessary), the Water and Sewerage Department (if necessary), and the Traffic Engineering Division — DPW (if necessary); and further

Provided, That all costs for the construction, maintenance, permits and use of the encroachments shall be borne by the Detroit Athletic Club or its assigns; and further

Provided, That all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments, shall be borne by the Detroit Athletic Club or its assigns. Should damages to utilities occur the Detroit Athletic Club or its assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located within the public rights-of-way, by acceptance of this permission, the Detroit Athletic Club (owners) for themselves, or their assigns, (by acceptance of permits for construction near underground utility lines, conduits, or mains) waives all claims for damages to the encroaching installations and agree to pay all costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, That the Detroit Athletic Club shall apply to become a participating member of the "MISS DIG" organization (if necessary); and further

Provided, That the Detroit Athletic Club shall file with the Finance Department 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 the faithful or unfaithful performance by the Detroit Athletic Club of the terms thereof. Further, the Detroit Athletic Club shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, The property owned by the Detroit Athletic Club and the building encroachments shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

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

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and the Detroit Athletic Club acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That the encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Tinsley-Talabi, and President Hill — 7.

Nays — None.

*WAIVER OF RECONSIDERATION (No. 11) per motions before adjournment.

**Department of Public Works
City Engineering Division**

April 24, 2000

Honorable City Council:

Re: Petition No. 1442 — West Village Association/St. John Riverview Hospital, requests the closing of certain public alleys in the area of E. Lafayette, Seyburn and Van Dyke Place.

Petition No. 1442 of "West Village Association / St. John Riverview Hospital" requests the conversion of the north-south public alley, 20 feet wide, east of Seyburn and south of Van Dyke Place, the north-south, 20 feet wide & east-west, 30 feet wide, public alley(s) west of Seyburn and south of East Lafayette into private easement(s) for public utilities.

The request was approved by the Solid Waste Division - DPW, and the Traffic Engineering Division - DPW. The petition was referred to the City Engineering Division - DPW for investigation (utility review) and report. This is our report.

The City of Detroit is owner in fee of the east-west public alley, 30 feet wide, south of E. Lafayette and west of Seyburn. The public alley was acquired by deed on October 8, 1986 J.C.C. Pgs. 1912 - 14. Therefore, the Finance Director must execute a Quit-Claim deed to transfer the vacated public right-of-way to the adjacent property owners.

The petitioner plans to use the paved alley return entrances (into E. Lafayette, Seyburn, and Van Dyke Pl.) and request such remain in their present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately owned utility companies have reported no objections to the conversion of public rights-of-way into a private easement for public utilities. Provisions protecting utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully, submitted,
 WILLIAM TALLEY
 for SUNDAY JAIYESIMI
 City Engineer

By Council Member Scott:

Resolved, All that part of the north-south public alley, 20 feet wide, east of Seyburn and south of Van Dyke Place, lying easterly of and abutting the east line of Lot(s) 5 - 9, both inclusive, and lying westerly of and abutting the west line of Lot 10; Also, all that north-south public alley, 20 feet wide, west of Seyburn and south of East Lafayette, lying westerly of and abutting the west line of Lot(s) 181 - 186, both inclusive, and lying easterly of and abutting the east line of Lot(s) 207 - 212, both inclusive; also, that part of the east-west public alley, 30 feet wide, (deeded to the City of Detroit October 8, 1986 J.C.C. Pgs. 1912 - 14) lying southerly of and abutting the south line of Lot 186, as platted in "Wesson's Subdivision of that part of Private Claim 38 lying between Jefferson Avenue and Waterloo Street", City of Detroit, Wayne County, Michigan as recorded in Liber 16, Page 91, Plats, Wayne County Records

Be and the same is hereby vacated as public alley(s) and is hereby converted into private easement(s) for public utilities of the full width of the alley(s), which easement(s) shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of the lots abutting on said alley(s) and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public an easement or right-of-way over said vacated public alley(s) herein above described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities

such as water mains, sewers, gas lines or mains, telephone, electric light conduits or poles or things usually placed or installed in a public alley in the City of Detroit, with the right to ingress and egress at any time to and over said easement for the purpose above set forth,

Second, Said utility easement or right-of-way in and over said vacated alley(s) herein above described shall be forever accessible to the maintenance and inspection forces of the utility companies, or those specifically authorized by them, for the purpose of inspecting, installing, maintaining, repairing, removing, or replacing any sewer, conduit, water main, gas line or main, telephone or light pole or any utility facility placed or installed in the utility easement or right-of-way. The utility companies shall have the right to cross or use the driveways and yards of the adjoining properties for ingress and egress at any time to and over said utility easement with any necessary equipment to perform the above mentioned task, with the understanding that the utility companies shall use due care in such crossing or use, and that any property damaged by the utility companies, other than that specifically prohibited by this resolution, shall be restored to a satisfactory condition,

Third, Said owners for their heirs and assigns further agree that no buildings or structures of any nature whatsoever including, but not limited to, concrete slabs or driveways, retaining or partition walls, shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division - DPW,

Fourth, That if the owners of any lots abutting on said vacated alley(s) shall request the removal and/or relocation of any existing poles or other utilities in said easement, such owners shall pay all costs incidental to such removal and/or relocation, unless such charges are waived by the utility owners,

Fifth, That if any utility located in said property shall break or be damaged as a result of any action on the part of said owners or assigns (by way of illustration but not limitation) such as storage of excessive weights of materials or construction not in accordance with Section 3, mentioned above, then in such event said owners or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility; and further

Provided, That if it becomes necessary to remove the paved alley return(s) at the entrances (into E. Lafayette, Seyburn and Van Dyke Pl.), such removal and construction of new curb and sidewalk shall be done under city permit and inspection according to City Engineering Division - DPW specifications with all costs borne by the abutting owner(s), their heir or assigns; and be it further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds; and be it further

Provided, That the Finance Director is hereby authorized and directed to issue a Quit-Claim Deed to transfer the following vacated public (alley) right-of-way to the adjacent property owners for the fair market value and/or other valuable considerations:

Land in the City of Detroit, Wayne

County, Michigan being the north 30.00 feet of Lot 187 of "Wesson's Subdivision of that part of Private Claim 38 lying between Jefferson Avenue and Waterloo Street", City of Detroit, Wayne County, Michigan as recorded in Liber 16, Page 91, Plats, Wayne County Records (said part of lot having been deeded to the City of Detroit for a public alley on October 8, 1986 J.C.C. Pgs. 1912 - 14); containing 3,750 square feet or 0.0861 acres more or less; subject to a private easement for public utilities.



Adopted as follows:
Yeas — Council Members K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Tinsley-Talabi, and President Hill — 7.
Nays — None.
*WAIVER OF RECONSIDERATION

(No. 12) per motions before adjournment.

From The Clerk
May 3, 2000
This is to report for the record that, in