

**Department of Public Works
City Engineering Division**

June 27, 2014

Honorable City Council:

Re: Petition No. 2937 — Jimmie Henderson, request to close an inactive city street, South Martindale Avenue located on the East side of Metro Customs and Repairs, located at 8911 W. Grand River.

Petition No. 2937, Jimmie Henderson on behalf of Metro Customs and Repairs requests conversion of part of Martindale Avenue, 98 feet wide, lying between West Grand River Avenue, 100 feet wide, and the public alley, 18 feet wide, first Westerly from said Grand River Avenue (alley is adjoining Jeffries Freeway) into a private easement for utilities.

The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report.

The request was approved by the Solid Waste Division — DPW, Traffic Engineering Division — DPW and City Engineering — DPW.

All City Departments and privately owned utility companies have reported no objections to the conversion of the public rights-of-way into a private easement for public utilities.

Provisions protecting utility installations are part of the attached resolution. Detroit Water and Sewerage Department (DWSD) has no objection to the conversion to easement. The specific DWSD provisions for easements are included in the resolution. Public Lighting Department (PLD) has no objection to the conversion to easement. The specific PLD provisions for easements are included in the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,
RICHARD DOHERTY, P.E.

City Engineer

City Engineering Division — DPW

By Council Member Jenkins:

Resolved, All that part of Martindale Avenue, 98 feet wide, lying easterly of and abutting the easterly line of Lot 15, and lying westerly of and abutting the westerly line of Lot 16 "Frederick C. Martindale Subdivision of Lot A of Tireman Estate, 1/4 Section 50, 10,000 Acre Tract, City of Detroit, Wayne County, Michigan" as recorded in Liber 31, Page 19 of Plats, Wayne County Records.

Be and the same is hereby vacated as a public street and is hereby converted into a private easement for public utilities of the full width of the street, which easement 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 street and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public easement or right-of-way over said vacated street 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 street 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 street 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 easements, 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 street 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

Provided, That an easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewerage Department for the purpose of installing, maintaining, repairing, remov-

ing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easements for the purpose above set forth; and be it further

Provided, That free and easy access to the sewers, water mains, fire hydrants and appurtenances within the easements is required for Detroit Water and Sewerage Department equipment, including the use of backhoes, bull dozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities; and be it further

Provided, That the Detroit Water and Sewerage Department retains the right to install suitable permanent main location guide posts over its water mains at reasonable intervals and at points deflection; and be it further

Provided, That said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including porches, patios, balconies, etc., shall be built upon or over said easement, or that no grade changes or storage of materials shall be made within said easements without prior written approval and agreement with the Detroit Water and Sewerage Department; and be it further

Provided, That the Public Lighting Department requires that no structures or barricades be built over PLD installations or on existing utility easement areas. As per PLD requirements, any structure proposed to be built shall maintain 10 feet horizontal clearance from the overhead PLD lines and installations also any structure proposed to be built shall maintain a minimum of 3 feet horizontal clearance

and 12 inch vertical clearance from the PLD conduit bank and manholes. The contractor should take necessary precautions not to damage PLD utilities, if they plan to use heavy earth moving equipment. The contractor will be liable for any damages to any PLD underground facilities. PLD requires unrestricted easement rights with 24-hour heavy vehicle access in order to maintain their facilities; and be it further

Provided, That if at any time in the future, the owners of any lots abutting on said vacated streets and alleys shall request the removal and/or relocation of the aforementioned utilities in said easements, such owners shall pay all costs incident to such removal and/or relocation. It is further provided that if sewers, water mains, and/or appurtenances in said easement shall break or be damaged as a result of any action on the part of the owner, or assigns, then in such event, the owner or assigns shall be liable for all costs incident to the repair of such broken or damaged sewers and water mains, and shall also be liable for all claims for damages resulting from his action; and be it further

Provided, That if it becomes necessary to remove the paved street entrance (into West Grand River Avenue) 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 further

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

