



Adopted as follows:  
 Yeas — Council Members Ayers, Benson, Castaneda-Lopez, Cushing-berry, Jr., Leland, Sheffield, Tate and President Jones — 8.  
 Nays — None.

**Department of Public Works  
 City Engineering Division**

September 25, 2015

Honorable City Council:

Re: Petition No. 480 — Giffels Webster, request on behalf of 4625 LLC for the vacation of a portion of W. Forest, 70 feet wide and Second Avenue, 100 feet wide.

Petition No. 480 — Giffels Webster on behalf of 4625 LLC, request to vacate and

convert to easement the south 6.3 feet of Forest Avenue, 70 feet wide, between Second Avenue and the public alley first west thereof; also the west 9.3 feet of Second Avenue, 100 feet wide from Forest Avenue to a point 72.8 feet north of Prentis Avenue, 60 feet wide.

This request is being made as a part of the restoration of the historic Forest Arms Apartment Building. The owners are rehabilitating the property back as close as possible to its original 1905 condition. The Forest Arms masonry and wrought iron fence existed as an encroachment in the public right-of-way and the owners wish to maintain the fence without interfering with the sidewalk space.

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, City Engineering Division — DPW and Traffic Engineering Division — DPW.

Planning and Development Department reports that the property is in the Warren Prentis Historic District, but they have no objection to the request.

Detroit Water and Sewerage Department (DWSD) has no objection to the conversion to easement. The proposed fence may encroach upon DWSD facilities. Therefore specific DWSD provisions for easements and encroachments are included in the resolution.

DTE Energy — Gas Division reports involvement, but no objection to the proposed property change, provided an easement is reserved the full width of the involved streets. DTE is proposing to install new mains on W. Forest Avenue at 2 feet south of the north line and on Second Avenue 12 feet east of the west property line. The new mains are outside of the requested area, however an easement shall be reserved protecting existing and future utility installations.

All other involved City Departments, including the Public Lighting Department, and Public Lighting Authority; also all other 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.

I am recommending adoption of the attached resolution.

Respectfully submitted,  
RICHARD DOHERTY, P.E.  
City Engineer

City Engineering Division — DPW  
By Council Member Ayers:

Resolved, All that part of Forest Avenue, 70 feet wide, being the southerly 6.3 feet lying northerly of and adjoining the northerly line of Lot 6 "Wm. A. Butler's Subdivision of Out Lot 102, 104 and 106 and that part of Out Lot 108 lying S. of the S. line of Putnam Avenue of the Subdivision of the Cass Farm" as recorded in Liber 11, Page 89 of Plats, Wayne County Records; also all that part of Second Avenue, 100 feet wide, being the westerly 9.3 feet lying easterly of and adjoining the easterly line of Lots 2, 3, 4, 5, 6 and the above said southerly 6.3 feet of Forest Avenue "Wm. A. Butler's Subdivision of Out Lot 102, 104 and 106 and that part of Out Lot 108 lying S. of the S. line of Putnam Avenue of the Subdivision of the Cass Farm" as recorded in Liber 11, Page 89 of Plats, Wayne County Records.

Be and the same are hereby vacated as a public streets and converted into pri-

vate easements for public utilities, which easements 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 streets 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 public streets 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 public streets 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 streets 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 be it further

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, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement 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 if at any time in the future, the owners of any lots abutting on said vacated streets shall request the removal and/or relocation of the aforementioned utilities in said easement, such owners shall pay all costs incidental 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 incidental 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 any 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 in the event that the masonry and wrought iron fence is encroaching upon DWSD facilities, DWSD agrees to the encroachment subject to the fulfilling of the following 5 provisions:

1. 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 right-of-way, and at all times, DWSD, its agents or employees, shall have the right to enter upon the right-of-way to maintain, repair, alter, service, inspect, or install its facilities. All costs incidental to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD's facilities for maintenance, repairing, alteration, servicing or inspection caused by the encroachment shall be borne by the petitioner. All costs associated with gaining access to DWSD's facilities, which could normally be expected had the petitioner not encroached into the right-of-way, shall be borne by DWSD; and be it further

2. All construction performed under this petition shall not be commenced until after five (5) 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 be it further

3. 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 be it further

4. If DWSD facilities located within the right-of-way 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 costs incidental to the repair, replacement or relocation of such broken or damaged DWSD facilities; and be it further

5. The petitioner shall hold DWSD harmless for any damages to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD's facilities; 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.

