



Adopted as follows:  
 Yeas — Council Members Ayers, Benson, Castaneda-Lopez, Cushingberry, Jr., Leland, Sheffield, Spivey, Tate and President Jones — 9.  
 Nays — None.

\*WAIVER OF RECONSIDERATION (No. 6), per motions before adjournment.

**Department of Public Works  
 City Engineering Division**

August 4, 2016

Honorable City Council:

Re: Petition No. 1129 – Bodywerks, Inc. request an alley extension of Brace Street which is in an industrial area northwest of Fitzpatrick Street, Detroit, MI 48228.

Petition No. 1129 – Bodywerks Inc., request to vacate and convert to easement Brace Avenue, 60 feet wide from Fitzpatrick Avenue, 80 feet wide to the Chesapeake & Ohio Railroad also part of

the northwest-southeast public alley, 20 feet wide, first northeasterly of and parallel to Fitzpatrick Avenue in the block of Brace Avenue, Fitzpatrick Avenue, the Chesapeake & Ohio Railroad and Faust Avenue.

This request is being made to provide security, and Brace Avenue and the subject alley are already physically closed.

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, and Traffic Engineering Division – DPW.

Public Lighting Department (PLD) reports are an arc wire in the alley that should be removed. A provision for the required PLD access is included in the 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.

All other involved City Departments, including, Public Lighting Authority and privately owned utility companies have reported no objections to the conversion of the public right-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 Benson:

Resolved, All that part of Brace Avenue, 60 feet wide, from Fitzpatrick Avenue, 80 feet wide to the Chesapeake and Ohio Railroad right-of-way and lying northwesterly of and adjoining the northwesterly line of Lot 582 and lying southeasterly of and adjoining the southeasterly line of Lot 583; also the north-west-southeast public alley, 20 feet wide, lying southwesterly of and adjoining the southwesterly line of the Chesapeake and Ohio Railroad and lying northeasterly of and adjoining the northeasterly line of Lots 559 through 582, both inclusive, and the vacated part of Faust Avenue adjoining said Lot 559, all the above in "Emerson Park, a Subdivision of part of the N.E. 1/4 of Section 35, T.1S.R. 10E, City of Detroit, Wayne County, Michigan" as recorded in Liber 55, Page 45 of Plats, Wayne County Records.

Be and the same is hereby vacated as a public rights-of-way and converted into private easements for public utilities of the full width of the rights-of-way, 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 rights-of-way 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 street and alley 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 or 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 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 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 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 the way of illustrations 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, 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 easement 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 a suitable permanent main location guide post over its water mains at reasonable intervals and at points of 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 easement 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 street or alley shall request the removal and/or relocation of the aforementioned utilities in said easement, 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 the Public Lighting Department (PLD) shall have 24-hour unimpeded heavy truck access way over said vacated public street and alley herein above described for the purposes of maintaining, installing, repairing, removing, or replacing PLD facilities contained therein inclusive of removal of the existing are wire, and be it further

Provided, That if it becomes necessary to remove the paved street return at the entrance (into Fitzpatrick Avenue) or the paved alley return (into Faust 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.

