



Legislation Text

File #: RES PH 11-1046, **Version:** 1

Approving the petition of Matthew and Karla Hollinshead, and William and Christine Aerts, to vacate part of Finn Street south of Pinehurst Avenue.

WHEREAS, Matthew and Karla Hollinshead and William and Christine Aerts ("Petitioners") have petitioned the City of Saint Paul to vacate Finn Street from Pinehurst Avenue to the alley immediately to the south, as documented in Office of Financial Services Vacation File Number 04-2009 and described as:

Finn Street between Lot 1, Block 8, Saint Catherine Park and Lot 14, Block 9, Saint Catherine Park, all in Ramsey County, Minnesota; and

WHEREAS, the City of Saint Paul ("City") and public and private utilities have reviewed the petition and set forth conditions and restrictions with regard to the proposed vacated public property and the protection of existing utilities, as described below; now, therefore be it

RESOLVED, that the right-of-way heretofore described is hereby vacated and discontinued as public property and, subject to the following conditions, the easements within said public property are hereby released:

1. A permanent utility easement shall be retained on, over, under and across the entire vacated area on behalf of the City to reserve its right to maintain and operate any sewer in or upon said easement and to enter upon said easement or any portion thereof at any time and from time to time for the purposes of future construction, reconstruction, inspection, maintenance or repair of the same, or any part thereof. Said easement shall be subject to the following requirements:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access to utility facilities for maintenance purposes will be permitted within the easement area.
- b. Improvements in or upon the above-described easement that do not prohibit the City from exercising its reserved rights may be allowed by obtaining prior written permission from the Department of Public Works Sewer Division with the understanding that the restoration and costs of such improvements shall be the sole responsibility of the Petitioners, their successors and assigns in the event the City exercises its reserved easement rights.
- c. Should it be necessary that the Petitioners' works or improvements be removed or damaged as a result of the Department of Public Works operations, all removal, replacement or modification costs shall be borne solely by the Petitioners.
- d. No change from the existing grade within the easement area shall be permitted without prior written permission from the Department of Public Works Sewer Division.
- e. No change in surfacing within the easement area shall be permitted without prior written permission from the Department of Public Works Sewer Division.
- f. The Petitioners, their successors and assigns, shall fully indemnify, defend, and save harmless the City of Saint Paul, its officers, agents, employees, and servants from all suits,

actions or claims which shall arise from any injuries or damages received or sustained by any break in any service pipe or connection in said reserved easement arising out of or resulting from any action or negligence of the Petitioners, their employees, agents or business invitees.

2. A permanent pedestrian access easement shall be retained on, over, under and across the vacated area on behalf of the City to reserve its right to maintain and operate any sidewalk, trail or landscaping upon said easement and to enter upon said easement or any portion thereof at any time and from time to time for the purposes of construction, reconstruction, inspection, maintenance or repair of the same, or any part thereof. Said easement shall be subject to the following requirements:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access for maintenance purposes will be permitted within the easement area.
- b. Improvements in or upon the above-described easement that do not prohibit the City from exercising its reserved rights may be allowed by obtaining prior written permission from the Department of Parks and Recreation with the understanding that the costs of such improvements shall be the sole responsibility of the Petitioners, their successors and assigns in the event the City exercises its reserved easement rights.
- c. Should it be necessary that the Petitioners' works or improvements be removed or damaged as a result of the Department of Parks and Recreation's operations, all removal, replacement or modification costs shall be borne solely by the Petitioners.
- d. No change from the existing grade within the easement area shall be permitted without prior written permission from the Department of Parks and Recreation.
- e. No change in surfacing within the easement area shall be permitted without prior written permission from the Department of Parks and Recreation.

3. Except for the existing public sidewalk and lantern style lighting and landscaped areas between the split sidewalk sections, the Petitioners, their successors and assigns shall be responsible for maintaining the vacated area, including but not limited to mowing of grass and removal of litter and debris. The City will continue to be responsible for shoveling the sidewalk.

4. An easement shall be retained on behalf of Northern States Power Company d/b/a Xcel Energy - Electric), a Minnesota corporation, for existing facilities.

5. An easement shall be retained on behalf of Qwest, a Delaware Corporation, for existing facilities in the west sixteen (16) feet of the vacated right-of-way.

6. This vacation shall be subject to the terms and conditions of Chapter 130, codified March 1, 1981, of the Saint Paul Legislative Code as amended.

7. The Petitioners, their successors and assigns shall pay \$600.00 to the City of Saint Paul as an administrative fee for this vacation which is due and payable within 60 days of the effective date of this resolution.

8. The Petitioners, their successors and assigns shall, within 60 days of the effective date of this resolution, file with the Office of Financial Services Real Estate Section, an acceptance in writing of the conditions of this resolution and shall, within the period specified in the terms and conditions of this resolution, comply in all respects with these terms and conditions.

9. The Petitioners, their successors and assigns agree to indemnify, defend and save harmless the City of Saint Paul, its officers and employees from all suits, actions or claims of any character brought as a result of injuries or damages received or sustained by any person, persons or property on account of this vacation, or the Petitioners' use of this property, including but not limited to, a claim brought because of any act of omission, neglect, or misconduct of said petitioners or because of any claims or liability arising from any violation of any law or regulation made in accordance with the law, whether by the Petitioners or any of their agents or employees.

10. If it is deemed necessary to re-establish the City ownership of the vacated right-of-way in the future that the cost to the City is based upon the amount the Petitioners were required to pay, so as to not be a financial burden to City taxpayers.

None