

#104
3-21-06

(R-2006-696)

RESOLUTION NUMBER R- 301309
DATE OF FINAL PASSAGE MAR 21 2006

WHEREAS, California Streets and Highway Code section 8333(a) provides that the legislative body of a local agency may summarily vacate a public service easement where the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, the easements being vacated were acquired at no cost to the City more than five years ago and have never been used for the purposes for which they were acquired; and

WHEREAS, there is no anticipated future use for the easements in their present locations; and

WHEREAS, the affected property owner has requested the vacation of the unnecessary drainage and sewer easements within Lots 1 through 7 and 20 through 23 of Siempre Viva Business park, Map 12659 to unencumber his property and facilitate development of the site; and

WHEREAS, the City Council finds that:

(a) there is no present or prospective use for the drainage or sewer easements either for the purpose for which they were originally acquired, or for any other public use of a like nature that can be anticipated; and

(b) the public will benefit from the vacations through improved utilization of land;

(c) the vacations are consistent with the General Plan or an approved Community Plan;
and

(d) the public facility or purpose for which the easements were originally acquired will not be detrimentally affected by the vacation; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the drainage and sewer easements located within Lots 1 through 7 and 20 through 23 of Siempre Viva Business Park Map 12659, as more particularly described in the legal descriptions marked as Exhibit "A", and as show on Drawing No. 20345-B, marked as Exhibit "B", and on file in the office of the City Clerk as Document Nos. RR- 301309 - 1, and RR- 301309 - 2 which are by this reference incorporated herein and made a part hereof, are ordered vacated.

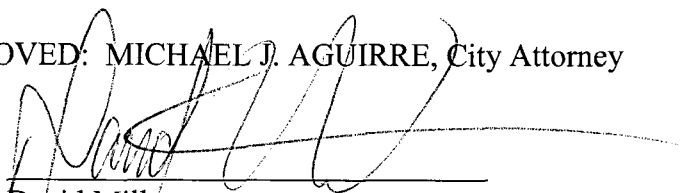
2. That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the Office of the County Recorder.

R- 301309

BE IT FURTHER RESOLVED, that this activity is exempt from CEQA pursuant to
CEQA guidelines section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



David Miller
Deputy City Attorney

DM:cfq
02/21/06
Or.Dept:DSD
R-2006-696
MMS#3021

R- 301309

MAR 21 2006

Passed by the Council of The City of San Diego on _____, by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|-------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Scott Peters | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Kevin Faulconer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Toni Atkins | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Anthony Young | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Brian Maienschein | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Donna Frye | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jim Madaffer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ben Hueso | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

MAR 21 2006

Date of final passage _____.

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary Cepeda*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number *R- 301309*