

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Peter Jensen

SUBJECT: STREET VACATION OF MCLELLAN AVENUE, GRANT STREET, AND EDWARDS AVENUE **DATE:** 03-15-10

Approved

Date

3/19/10

COUNCIL DISTRICT: 3

RECOMMENDATION

Conduct a public hearing and adopt a resolution to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue.

OUTCOME

Council adopts a resolution to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue.

BACKGROUND

The Santa Clara Valley Water District (SCVWD) submitted an application to vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue (map attached). The abandonment of the subject streets is necessary to facilitate the completion of the SCVWD's Upper Guadalupe River Improvement Project (Reach 6). As this project involves creek improvements and minor creek realignment, the subject portions of McLellan Avenue, Grant Street, and Edwards Avenue need to be vacated in order to accommodate this design.

On March 16, 2010, the Council adopted a resolution which declared the Council's intention to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue. The resolution approved a map showing the subject right-of-way to be conditionally vacated, set the public hearing for April 6, 2010, at 1:30 p.m., and directed the Director of Public Works to post the site with a Notice of Vacation.

ANALYSIS

This vacation application includes the abandonment of the following City street segments:

1. Grant Street - west of Palm Street (also known as Parcel 1)

2. McLellan Avenue - between Palm Street and the northerly edge of Virginia Street (also known as Parcel 2)
3. McLellan Avenue - between the southerly edge of Virginia Street to the northerly edge of Edwards Avenue (also known as Parcel 3)
4. Edwards Avenue - east of McLellan Avenue to McLellan Avenue - north of Willow Street (also known as Parcel 4)

City staff has reviewed the subject vacation application and concur with the SCVWD's proposal to abandon these streets. As the SCVWD has purchased the surrounding properties for the portions of Grant Street and McLellan Avenue (Parcels 1, 2, and 3) to be abandoned, there no longer remains a need for these portions of public street. However, the portion of Edwards Avenue (Parcel 4) still provides public street access to certain privately owned parcels. In order to accommodate the vacation of this portion of Edwards Avenue, the SCVWD has proposed the relocation of this street segment. The SCVWD will construct this relocated street with their construction project and dedicate the necessary public rights of way to accommodate this design. The existing street will provide access to abutting properties until such time that the replacement by the Water District has been completed to City standards. Therefore, staff is recommending that the vacation of Edwards Avenue (Parcel 4) be conditional and not be effective until such time that the relocation is complete and the necessary public rights of way are obtained from the SCVWD.

All concerned utility companies have been contacted in writing and have no objection to this vacation provided the existing facilities of Pacific, Gas, and Electric (PG&E) and San Jose Water Co. (SJWC) are abandoned, removed, and/or relocated from the proposed vacation area. The SCVWD has contracted with both PG&E and SJWC to relocate their facilities. As a result, the vacation of a portion of McLellan Avenue, Grant Street, and Edwards Avenue is conditional and will take effect when the utilities have been completely abandoned, removed, or relocated.

In summary, if the Council adopts a resolution vacating McLellan Avenue, Grant Street, and Edwards Avenue, none of the street vacations will take effect until the above mentioned conditions are satisfied.

According to the title reports submitted, the City of San José holds fee title to subject streets proposed for vacation. In order to accommodate the construction of the Upper Guadalupe River Reach 6 Project, the SCVWD has requested to acquire fee title to the subject streets. Therefore, concurrent with the proposed resolution to vacate the subject streets, Council will also be asked via separate memorandum from the Department of General Services to approve an agreement authorizing the conveyance of fee interest to the project properties to the SCVWD.

EVALUATION AND FOLLOW-UP

If Council adopts this resolution to conditionally vacate a portion of McLellan Avenue, Grant Street, and Edwards Avenue, staff will work with the SCVWD to complete the above mentioned conditions necessary to effectuate the Street Vacation.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria above. All concerned utility companies have been contacted in writing and have no objection to this vacation. This memorandum will be posted to the City's website for the April 6, 2010 Council agenda.

COORDINATION

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement, Transportation, Police, Fire, and the City Manager's Budget Office. In addition, the vacation and required resolution have been reviewed by the City Attorney's Office. All appropriate public utility companies have consented to the proposed vacation, except that PG&E and SJWC required abandonment or relocation of their respective facilities.

FISCAL/POLICY ALIGNMENT

Vacating these streets is in alignment with the FY 2009-10 Adopted Budget Mayor's Message in that this action will reduce a potential City liability.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees to process this street vacation.

BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

CEQA: Resolution No. 75043.

/s/

KATY ALLEN
Director, Public Works Department

/s/

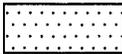
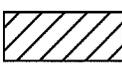
PETER JENSEN
Director, General Services Department

For questions please contact TIMM BORDEN, DEPUTY DIRECTOR, PUBLIC WORKS DEPARTMENT, at 408-535-8300.

PD:ML:dcs
Attachment
3-18457 2nd CC Memo 030410

LOCATION MAP

SHOWING THAT PORTION OF MCLELLAN AVENUE, GRANT STREET & EDWARDS AVENUE TO BE CONDITIONALLY VACATED

-  AREA TO BE VACATED
-  AREA TO BE DEDICATED

