

RESOLUTION NO. 73107

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE  
SUMMARILY VACATING THE PUBLIC SERVICE EASEMENT AS  
SHOWN AROUND THE PERIMETER OF LOT 36 OF TRACT 9638**

**WHEREAS**, subdivision (a) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public utilities easement if the Easement has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed vacation; and

**WHEREAS**, the City Council intends to summarily vacate a portion of the public utilities easement (hereinafter the "Easement") constituting all that real property situated in the City of San Jose, County of Santa Clara, State of California, more particularly described as:

All of the 4' Public Service Easement (PSE) as shown around the perimeter of Lot 36 as shown on the map of Tract No. 9638 recorded in Book 778 of Maps at Pages 38 through 40, Santa Clara County Records.

Being a portion of a PSE granted to the City of San Jose by a map of Tract 9639 recorded on Book 780 of Maps, Pages 34 through 36, Official Records of said Santa Clara County, further described as follows:

Those portions of the above described 4' PSE within Lot A, Knoll Lane and Knoll Court

Those portions of the above described 4' PSE within Lot B, Common Open Space

A portion of the above described 4' PSE within Lot 13, the westerly line of which is further described as follows:

Beginning at the most northerly corner of said Lot 13; thence from a tangent which bears South 22°10'53" West on a curve to the left, through a central angle of 11°12'24", having a radius of 124.00 feet, an arc distance of 24.25 feet.

**WHEREAS**, on December 7, 2004, the Director of the Department of Public Works approved that certain map entitled "TRACT MAP SHOWING THAT PORTION OF THE FOUR (4) FOOT WIDE PUBLIC SERVICE EASEMENT AROUND THE PERIMETER OF LOT 36 SHOWN ON TRACT NO. 9638," of the Public Service Easement that the City Council intends to summarily vacate"(hereinafter "Map"); and

**WHEREAS**, attached to this Resolution as Exhibit "A" is a copy of the report, dated 03-01-06, that the Director of the Department of Public Works submitted to the City Council setting forth the reasons justifying summary vacation of the Easement (hereinafter "Report");

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

**SECTION 1.** The City Council hereby adopts the Report and, based upon the Report and all evidence submitted, makes the following findings:

1. The date of dedication of the Easement is less than five years, and more than one year, immediately preceding the vacation and the Easement was not used continuously since the date of dedication.
2. There are no other public facilities located within the Easement; and
3. The portion of the Easement to be vacated is not needed for present or prospective public utility or other public facilities; and
4. The public convenience and necessity does not require reservation of any portion of the Easement.

**SECTION 2.** Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333 of the Streets and Highways Code, the City Council does hereby order that the portion of the Easement shall be and hereby is summarily vacated.

**SECTION 3.** The City Clerk is hereby directed to record at Santa Clara County Records this Resolution, including Exhibit "A" hereto, and the Map.

**SECTION 4.** The portion of the Easement to be vacated herein will no longer constitute a public utilities easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

ADOPTED this 21<sup>st</sup> day of March, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,  
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;  
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

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RON GONZALES  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk