

**RESOLUTION NO. 74874**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ VACATING A STREET ALLEY, BETWEEN EASTGATE AVENUE AND BEVERLY BOULEVARD, AND RESERVING A PUBLIC SERVICE EASEMENT OVER THE ENTIRE AREA BEING VACATED**

**WHEREAS**, the vacation of the Street Alley described in Section 3 of this Resolution is being conducted pursuant to and in accordance with the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California; and

**WHEREAS**, on March 10, 2009, the City Council adopted Resolution No. 74819 (“Resolution of Intention”) declaring its intention to vacate the Street Alley described in Section 3 of this Resolution and to reserve a public service easement over the area being vacated; and

**WHEREAS**, the Resolution of Intention gave notice that on Tuesday, the 14th day of April, 2009 at 1:30 p.m., in the Council Chambers of the City Council, in the City Hall of the City of San José, the Council would hear any and all persons interested in or objecting to the vacation of said Street Alley; and

**WHEREAS**, the Resolution of Intention giving notice of the date, time and place of the public hearing was published in the manner prescribed by law; and

**WHEREAS**, notices of the proposed street vacation, stating the purpose of the Resolution of Intention and the time and place set for the public hearing, were posted in the manner prescribed by law; and

**WHEREAS**, prior to the public hearing the plat map approved by the Director of Public Works on January 9, 2009, entitled “PLAT MAP SHOWING A 20-FOOT WIDE ALLEY BETWEEN EASTGATE AVENUE AND BEVERLY BOULEVARD, TO BE VACATED WITH RESERVATION OF A PUBLIC SERVICE EASEMENT OVER THE ENTIRE AREA BEING VACATED” and showing the Street Alley proposed for vacation and the public service easement proposed for reservation (“Plat Map”), was filed in the Office of the City Clerk and made available for examination by any persons desiring to do so; and

**WHEREAS**, on April 14, 2009, at 1:30 p.m. in the City Council chambers, the City Council heard any and all persons interested in or objecting to the proposed vacation of the Street Alley, and received and considered all evidence submitted; and

**WHEREAS**, at the public hearing on the vacation of the Street Alley described in Section 3 of this Resolution, the City Council had before it a report from the Director of Public Works to the City Council, dated February 17, 2009, identified as "EXHIBIT A" and incorporated herein, and the Plat Map, identified as "EXHIBIT B" and incorporated herein;

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

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted at the public hearing, makes the following findings of relevant fact:

- A. This vacation is in conjunction with the site development of an existing 28,475 square foot commercial building, and the Street Alley described in Section 3 of this Resolution is no longer required for vehicular travel; and
- B. The Planning Commission considered the proposed street vacation and found the proposed street vacation to be consistent with the City's General Plan and recommended approval of the proposed vacation, as reported in the report from the Planning Commission to the City Council dated February 19, 2009, attached hereto as "EXHIBIT C" and incorporated herein; and
- C. There are a number of public facilities on the Street Alley described in Section 3 of this Resolution; and
- D. All affected public utilities have been contacted and have no objections to the proposed vacation so long as a public service easement is reserved over the entire area being vacated; and

SECTION 2. The City Council makes the following conclusions and finding based upon an analysis of the above facts:

- A. The Street Alley described in Section 3 of this Resolution and depicted in the Plat Map is not necessary for present or prospective public street purposes; and
- B. Pursuant to the provisions of Section 892 of the Streets and Highways Code of the State of California, the Street Alley proposed for vacation is not useful as a nonmotorized transportation facility; and

- C. The public convenience and necessity requires the reservation of a public service easement over the Street Alley proposed for vacation; and
- D. The proposed vacation is consistent with the City's General Plan.

**SECTION 3.** Based on the above stated facts, conclusions and findings, the City Council hereby vacates the following Street Alley subject to the reservation of a public service easement over and beneath the subject area, as hereinafter described, for the purposes of constructing, maintaining, operating, replacing, removing or renewing the existing, or any future, public facilities located thereon:

BEING ALL OF THAT CERTAIN 20 FOOT ALLEY CONNECTING EASTGATE AVENUE TO BEVERLY BOULEVARD, AS SHOWN ON THAT CERTAIN MAP OF TRACT NO. 221, ENTITLED "EASTGATE PARK – UNIT NO. 2", WHICH WAS FILED FOR RECORD ON APRIL 1, 1947, IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY IN BOOK 13 OF MAPS AT PAGE 8, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID 20 FOOT ALLEY AS SHOWN ON SAID TRACT MAP; THENCE PROCEEDING ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY AND THE GENERAL WESTERLY LINE OF SAID TRACT NO. 221, N 30°41'30" W, 129.67 FEET, THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 62°30'49", AN ARC LENGTH OF 21.82 FEET TO THE INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF BEVERLY BOULEVARD; THENCE ALONG A CURVE TO THE LEFT, FROM A TANGENT BEARING OF S 86°47'41" W HAVING A RADIUS OF 110.00 FEET, A CENTRAL ANGLE OF 27°29'11", AN ARC LENGTH OF 52.77 FEET TO THE INTERSECTION WITH THE SOUTHEASTERLY LINE OF SAID

ALLEY; THENCE ALONG A CURVE TO THE LEFT, FROM A TANGENT BEARING OF N 59°18'30" E, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 31.42 FEET; THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE OF SAID ALLEY, S 30°41'30" E, 75.00 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 31.42 FEET; THENCE ALONG THE NORTHWESTERLY LINE OF SAID ALLEY, N 59°18'30" E, 268.23 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 88°32'30", AN ARC LENGTH OF 30.91 FEET TO THE INTERSECTION WITH THE SOUTHWESTERLY LINE OF EASTGATE AVENUE; THENCE ALONG SAID SOUTHWESTERLY LINE OF EASTGATE AVENUE, S29°14'00" E, 60.02 FEET TO THE START OF A CURVE ALONG THE SOUTHEASTERLY LINE OF SAID 20 FOOT ALLEY; THENCE RUNNING WESTERLY ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 91°27'30", AN ARC LENGTH OF 31.92 FEET; THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE OF 20 FOOT ALLEY, S59° 18'30" W, 306.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,319 SQUARE FEET OF LAND, MORE OR LESS.

SECTION 4. The City Clerk is directed to record a certified copy of this Resolution in the Santa Clara County Recorder's Office.

SECTION 5. From and after the date this Resolution is recorded, the Street Alley vacated will no longer constitute a public street.

ADOPTED this 14th day of April, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk