

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6064

AN ORDINANCE clarifying and amending the title, preamble and Section 1 of Ordinance No. 69, to reflect that the intent of the ordinance was to vacate all public interest in the right-of-way located at 95th Ave NE between NE First Street and NE 5th Street; and authorizing the City Manager or designee to refund the petitioner's filing fee.

WHEREAS, in 1942, King County vacated a portion of 95th Avenue NE between N.E. First Street and N.E. 5th Street in the Lochleven Plat; and

WHEREAS, the original right-of-way was 60 feet wide and the County reserved the northerly 10 feet for utilities and pedestrian access; and

WHEREAS, this reservation left the property (currently divided into two parcels owned by the Gwilyms and Mechams) with a 20-foot wide portion of the property separated from the main portion of property by a 10 foot of right-of-way; and

WHEREAS, on April 2, 2012, Kathleen Gwilym filed a petition to vacate the 10 foot portion of 95th Ave NE that separates her property; and

WHEREAS, on June 4, 2012, the City Council held a public hearing to consider the petition to vacate; and

WHEREAS, at the hearing, Council requested staff to do additional research regarding the possibility of a property trade in lieu of payment and to look at all possible options due to the unusual circumstances; and

WHEREAS, following the public hearing, the existence of Ordinance 69 was brought to the City's attention by the petitioner; and

WHEREAS, Ordinance 69 is entitled "AN ORDINANCE vacating utility easement in vacated 95th Avenue N.E. between N.E. First Street and N.E. 5th Street"; and

WHEREAS, the description of the property being vacated by Ordinance 69 is the same 10 foot strip of right-of-way that currently divides the two parcels owned by the Gwilyms and Mechams and is the subject of the Gwilym petition; and

WHEREAS, a review of the legislative history of Ordinance 69 indicates that the words "right-of-way", "street", "land", and "easement" were used interchangeably when referring to the 10 foot strip of right-of-way and appears to have caused confusion because of this inconsistent use of terminology; and

WHEREAS, a review of the legislative history of Ordinance 69 appears to indicate that the ordinance contemplated vacating the entire 10 foot right-of-way; and

WHEREAS, this interpretation is supported by the fact that the legislative history states "Upon motion by Mr. Glorius, seconded by Mr. Karg, granting of the vacation of the above described street was unanimously approved"; and

WHEREAS, the City Council believes it is in the best interest of the City and its citizens that the intent of Ordinance 69 be clarified; and

WHEREAS, the City Council further believes it is in the best interest of the City and its citizens that Ordinance 69 be amended to reflect that the intent of the ordinance was to vacate all public interest in the 10 foot strip of right-of-way; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:

Section 1. Ordinance 69 is hereby clarified to reflect that the intent of the ordinance is to vacate all public interest in the 10 foot strip of right-of-way that remained when King County vacated a portion of 95th Avenue NE between N.E. First Street and N.E. 5th Street in the Lochleven Plat.

Section 2. The title of Ordinance 69 is hereby amended as follows:

AN ORDINANCE vacating ~~utility easement~~ all public interest in the right-of-way in vacated 95th Ave N.E. between N.E. First and N.E. 5th Street;

Section 3. The Preamble of Ordinance 69 is hereby amended as follows:

WHEREAS, there was filed with the City Council a petition to vacate a ~~utility easement~~ right-of-way below described by the owner of more than two-thirds of the private property abutting the same;

Section 4. Section 1 of Ordinance 69 is hereby amended as follows:

That ~~utility easement~~ all public interest in the right-of-way lying within vacated 95th Ave N.E. between N.E. First Street and N.E. 5th Street within the City of Bellevue hereby is vacated.

Section 5. A certified copy of this ordinance or such other documentation as necessary, shall be filed with the King County Assessor's Office to reflect this amendment.

Section 6. The City Manager or his designee is hereby authorized to refund the petitioner's filing fee.

ORIGINAL

Section 7. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

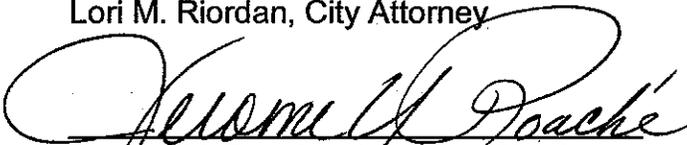
Passed by the City Council this 2nd day of July, 2012,
and signed in authentication of its passage this 2nd day of July,
2012.

(SEAL)


Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney


Jerome Y. Roaché, Assistant City Attorney

Attest:


Myrna L. Basich, City Clerk

Published July 5, 2012