ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of March 13, 2010

SUPPLEMENTAL REPORT

DATE: March 9, 2010

SUBJECT: Enactment of an Ordinance to Amend and Reenact an Ordinance to Vacate on Part of Parcel B-2A, Western Electric Company, Incorporated: 1) a Portion of a 10' Utility Easement for Water Main on the Southwest Portion of the Parcel; and, 2) a 15' Storm Sewer Easement on the Southwest Portion of the Parcel, known as 1201 S. Hayes Street and 1200 S. Fern Street, Arlington County, Virginia (RPC No. 35004001), with Conditions.

DISCUSSION: The Applicant has requested a minor revision to the last sentence of Condition No. 8 of the Ordinance of Vacation to clarify the instances when the Ordinance of Vacation shall become null and void. This revision replaces the phrase, "In either instance", in the last sentence in Condition No. 8, and the sentence should now read as follows: "If all of the conditions of the Ordinance of Vacation have not been met by the earlier of such dates, then the Ordinance of Vacation shall become null and void." The revised language is reflected in the Ordinance of Vacation set forth in Attachment 1 hereto.

County Manager: BMD/GA

County Attorney: BAK/ SWM

Staff: Betsy Herbst

13.

ORDINANCE TO AMEND AND REENACT AN ORDINANCE TO VACATE ON PART OF PARCEL B-2A, WESTERN ELECTRIC COMPANY, INCORPORATED: 1) A PORTION OF A 10' UTILITY EASEMENT FOR WATER MAIN ON THE SOUTHWEST PORTION OF THE PARCEL; 2) A 15' STORM SEWER EASEMENT ON THE SOUTHWEST PORTION OF THE PARCEL, KNOWN AS 1201 S. HAYES STREET AND 1200 S. FERN STREET, ARLINGTON COUNTY, VIRGINIA (RPC NO. 35004001), WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request on file by PL Pentagon LLC, c/o Kimco Realty Corporation (the "Applicant/Property Owner") in the Office of the Department of Environmental Services, on property known as Part of Parcel B-2A, Western Electric Company, Incorporated: 1) a portion of a 10' Utility Easement for Water Main on the Southwest Portion of the parcel, being established by Deed of Easement dated November 8, 1976, and recorded in Deed Book 1934 at Page 387 among the Arlington County, Virginia land records; and 2) a 15' Storm Sewer Easement on the Southwest Portion of the Parcel, being established by Deed of Dedication and Exchange dated February 25, 1954, and recorded in Deed Book 1142 at Page 469 among the Land Records, which easements are designated on the plat entitled "Plat Showing the Vacation of a Portion of a 10' Utility Easement for Water Main, Deed Book 1934 Page 387, and the Vacation of 15' Storm Sewer Easement, Deed Book 1142 Page 469, on Part of Parcel "B-2A", Western Electric Company, Incorporated, Deed Book 2620 Page 409, Arlington County, Virginia", prepared by VIKA Incorporated, dated March 7, 2007, revised June 5, 2008, and attached to the County Manager's Report dated February 23, 2010, as Exhibit A are hereby vacated subject to the following conditions:

1. The Applicant/Property Owner shall submit, for review and approval, to the Department of Environmental Services ("DES"), a utility relocation and engineering design plan for the construction, relocation, removal, and/or replacement of the storm sewer and water facilities located, in whole or in part, within the portion of the easements vacated by this Ordinance of Vacation ("Plan") in compliance with the Arlington County Construction Standards and Specifications. The Plan shall be subject to approval by the Director of DES, or his designee.
2. The Applicant/Property Owner shall submit to the Director of DES, or his designee, a bond, letter of credit, or other security, in an amount and in a form as determined by, and acceptable to, the County Manager or his designee, to secure the construction, relocation, removal, and/or replacement of the storm sewer and water facilities pursuant to the approved Plan.
3. The Applicant/Property Owner shall, at its own cost and expense, remove, relocate and reconstruct the existing storm sewer and water facilities, located within the portions of the easements herein vacated, with new storm sewer, water and related appurtenant facilities of size, dimension and location acceptable to Arlington County ("County"), in strict accordance with Arlington County Construction Standards and Specifications, and all applicable laws, ordinances, regulations and policies.
4. The Applicant/Property Owner shall dedicate, grant and convey to the County new storm sewer and water facilities easements, at locations and of dimensions necessary to

accommodate the relocated facilities as required by the County and as provided in Site Plan # 297, approved by the County Board on July 21, 2008. The Real Estate Bureau Chief, Department of Environmental Services, or his designee, is authorized to accept the storm sewer and water facilities easements on behalf of the County, subject to approval thereof as to form by the County Attorney.

5. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed(s) of Vacation, and all required plats, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.

6. The Applicant/Property Owner shall record the Deed(s) of Vacation and all plats, subject to the approval of the County Manager, or his designee, and approval as to form by the County Attorney.

7. The Applicant/Property Owner shall pay all fees, including the fees for plat review, approval and recordation of the Deed(s) of Vacation associated with the Ordinance of Vacation.

8. All conditions of the Ordinance of Vacation shall be met by the earlier of: a) noon on July 1, 2014, or b) the date when the County Board amends Site Plan #297, if such amendment changes, deletes or modifies the requirement for an Ordinance of Vacation or the time period for obtaining the same. ~~In either instance~~ If all the conditions of the Ordinance of Vacation have not been met by the earlier of such dates, then the Ordinance of Vacation shall become null and void.