

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
AUGUST 18, 2015 AGENDA

Subject:	Type:	Submitted By:
AMENDMENT TO ORDINANCE NO. 335 PARTIAL VACATION OF JOSEPH AVE 72 ND AVENUE TO TERRY DRIVE	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	JOHN KOTTMANN CITY ENGINEER/ASSISTANT PUBLIC WORKS DIRECTOR

SYNOPSIS

An ordinance has been prepared to amend section 3 of ordinance no. 335 vacating a portion of the right of way.

FISCAL IMPACT

No impact.

RECOMMENDATION

Approval

BACKGROUND

Ordinance No. 335 was approved in January of 1983 to vacate the outermost 5 feet of right of way on Joseph Avenue between 72nd Avenue and Terry Drive. That ordinance contained a provision stating that the City would provide a quitclaim deed to abutting property owners if requested and upon payment of an administrative fee. Until recently no request for such quit claim deed was ever received. In response to the recent request City staff determined that providing a quit claim deed could create potential problems. A quit claim deed would result in the creation of a 5 feet wide tax lot in front of the adjacent lot. If taxes were not kept current on the tax lot, it might be conveyed at a tax sale and result in a third party land-locking the abutting lot. Further, an irregular right of way line jogging back and forth 5 feet is confusing for all parties. To resolve the potential for these problems, it was determined that Ordinance No. 335 should be amended to delete the provision that a quit claim deed would be provided by the City to abutting lot owners. Therefore, the City Attorney was requested to prepare this proposed ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 3 OF ORDINANCE NO. 335 VACATING A PORTION OF THE RIGHT OF WAY; TO REPEAL SECTION 3 OF ORDINANCE NO. 335 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

SECTION 1. Amendment of Section 3 of Ordinance No. 335. Section 3 of Ordinance No. 335 is hereby amended, effective as of the effective date of Ordinance No. 335, to read as follows:

"Section 3. The City of La Vista, in addition to any other rights reserved to the City by applicable law, shall reserve (i) title in the five (5') foot wide strips of right of way that abut the property located on Joseph Avenue between 72nd Avenue and Terry Drive, located in La Vista, Sarpy County and are vacated pursuant to Ordinance No. 335 and (ii) a perpetual easement for utilities, drainage, or other public improvements over, on, and/or under said vacated five (5') foot strips."

SECTION 2. Repeal of Section 3 as Previously Enacted. Section 3 of Ordinance No. 335 and all other ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof is hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, sentence clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 18TH DAY OF AUGUST, 2015.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

