

From: Greg Ripa
Sent: Thursday, June 18, 2020 4:03 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Cc: District 6 <district6@sanjoseca.gov>
Subject: Comment on 6/23/2020 Council Meeting Agenda Item 3.7

Re: June 23, 2020 San José City Council Meeting Agenda item 3.7 Streamlining Public Easement Vacation Process (File No. 20-700)

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To Mayor Liccardo and members of the San José City Council:

Before you today is an effort to streamline the vacation process for public service easements and streets where public service easements include any rights-of-way, easements, or use restrictions acquired for public use for sewers, pipelines, polelines, electrical transmission and communication lines, pathways, storm drains, drainage, canal, and water transmission lines among other purposes and where streets include and public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement.

I agree that development projects occasionally require street or easement vacations to accomplish their approved land use plans. I also am in support of streamlining the time and costs for processing of vacations for public and private development projects. However, I disagree that some vacations should be delegated to the Director of Public Works who would have the authority to summarily vacate public service easements, including "pathways" which may serve San Jose's interconnected city goals, non automobile mode split goals, and pedestrian safety goals. The City Council, as elected representatives of the people, should continue to have the final say over vacating all city property, rights of way, and easements.

Most easement vacations are on the City Council agenda consent calendar. This in and of itself is a streamlined process and does not overly burden the council. It does not take additional time at council meetings when placed on the consent calendar. It may take a bit of space, but this is a good thing to allow citizens to know what the city is relinquishing in terms of any public rights of way or public easements, including trails and pathways, and the reasons for those vacations. It provides for some "sunshine" on the vacation process. Placing all vacations in the consent calendar (or elsewhere in the agenda) would continue to provide "sunshine", accountability, and transparency regarding vacating public easements and rights of way, including trails and pathways, since the responsibility of those vacations would rest with the publicly elected officials in our representative democracy, the City Council.

Vesting authority with the Director of Public Works has less accountability and transparency. For example, in Staff's memorandum and resolution, it is unclear if the Director of Public Works would hold hearings similar to Planning Director Hearings, which has posted agendas and supporting documents and is thus more accountable and transparent, or if another process would be followed. It is also unclear if Director decisions will be able to be appealed to a commission and/or the City Council (paralleling the Planning Director Hearings).

As stated in council policy 0-1, The San José City Council is charged with the responsibility of establishing municipal policies and regulatory ordinances. The guiding principles for these are:

1. Government transparency and accessibility
2. Clarity in policies, practices and procedures
3. Government accountability

This new process for summary vacations fails these guiding principles. As currently written, this new summary vacation delegation process is not transparent and accessible, clear in practice and procedure, and is less accountable. The current method of placing all vacations, both general and summary, on the council agenda is transparent and accessible due to the posting of agenda items days in advance, has clarity as currently written (as evidenced by the process described in Staff's memorandum), and provides accountability since the city council has the final say over all public easements and rights of way.

Again, I support the intent to streamline the vacation process. However, instead of staff's recommendation, I ask the City Council to continue to have the final say in all vacations, both general and summary, in the interest of accountability and transparency. Thus, the Council should direct the City Manager to administratively set public hearings by adding all General and Summary vacation actions to City Council agendas but the City Council should not delegate any authority to summarily vacate public service easements.

Thank you,
Greg Ripa