

OCT 19 2009

J. Ronald Culy
City Clerk

ORDINANCE NO. 2750

**AN ORDINANCE TO VACATE A TURN AROUND
EASEMENT FOR BRELLINGER STREET IN THE CITY OF
COLUMBIA, ILLINOIS CREATED BY THE FINAL
SUBDIVISION PLAT FOR THE BRELLINGER SECOND
ADDITION SUBDIVISION PLAT RECORDED IN THE
MONROE COUNTY, ILLINOIS RECORDER'S OFFICE IN
PLAT ENVELOPE 2-233A DUE TO THE EXTENSION OF
SAID BRELLINGER STREET INTO THE BRELLINGER
THIRD ADDITION SUBDIVISION IN THE CITY
RENDERING THE TURN AROUND NO LONGER
NECESSARY**

WHEREAS, Section 5/7-101 of the Roads and Bridges Act of the Illinois Highway Code provides and requires that Illinois municipalities shall have the powers granted and duties imposed by said Act in addition to the powers granted by the Illinois Municipal Code; and, further, provides that Illinois municipalities shall have the power to vacate streets and alleys which are or will become part of the municipal street system provided they are vacated in the manner provided by the Illinois Municipal Code (605 ILCS 5/7-101);

WHEREAS, the Illinois Municipal Code allows and provides that the corporate authorities of each municipality in Illinois (being the City Council of the City of Columbia, Illinois in the case of the City of Columbia) may vacate streets, alleys and avenues (65 ILCS 5/11-61-2);

WHEREAS, Section 11-91-1 of Division 91 ("Vacating of Streets and Alleys", hereinafter referred to as the "Act") of the Illinois Municipal Code requires that whenever the Corporate Authorities determine that it is in the public interest to vacate a street, or part thereof, within an incorporated area, they may vacate the street, or part thereof, by an ordinance, (65 ILCS 5/11-91-1);

WHEREAS, the Act further requires that the ordinance vacating the street, or part thereof, must contain a legal description or permanent index number of the particular

parcel of property acquiring title to the vacated property which ownership is determined by Section 11-91-2 of the Act (65 ILCS 5/11-91-2);

WHEREAS, the Act further requires that the street vacation ordinance shall be passed by the affirmative vote of at least three-fourths (3/4) of the aldermen holding office at the time of reference (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that a notice of public hearing and the conduct of a public hearing is required before a street vacation ordinance can be enacted if a street under the municipalities jurisdiction is located in an unincorporated area but no such notice and hearing is required if the street is located in an incorporated area of the City; and the portion of the subject street that is the subject of vacation in this ordinance is located in an incorporated area of the city (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that if there are any public service facilities locate in such street, or part of a street, to be vacated the vacation ordinance shall also reserve to the municipality or to the public utility that owns the public service facilities, such property, right-of-way and easements as, in the judgment of the corporate authorities, are necessary or desirable for continuing pubic service by means of those facilities and for the maintenance, renewal and reconstruction thereof (65 ILCS 5/11-91-1);

WHEREAS, the Act further provides that the determination of the corporate authorities that the nature and extent of the public use or public interest to be subserved is such as to warrant the vacation of said street, or part thereof, shall be conclusive, and the passage of a vacation ordinance to provide for the same is sufficient evidence of that determination (65 ILCS 11-91-9);

WHEREAS, the City Council of the City of Columbia, Illinois (the "City"), has found and determined and does hereby declare that the public interest is subserved by the vacation of the Turn Around Easement at the Northern terminus of Brellinger Street in the Brellinger Second Addition Subdivision in the City involved in this ordinance for the following reasons:

(1) The subject turn around was created by the final subdivision plat for the Brellinger Second Addition Subdivision which is recorded in Plat Envelope 2-233A in the Office of the Monroe County, Illinois Recorder for the purpose of dead ending Brellinger Street at that location in the event the street was not extended into a subsequent addition to the subdivision and the final plat for the Brellinger Third Addition Subdivision has dedicated the right of way for the extension of Brellinger Street into that subdivision and the extension of said street has been constructed and dedicated to the City rendering the Turn Around Easement of no further use or purpose;

(2) By Resolution No. 09-2007 of the City which resolution conditionally approved the original preliminary plat for the Brellinger Second Addition Subdivision and which was enacted April 2, 2007, the City agreed to vacate the turn around easement

for Brellinger Street as shown and created by said final subdivision plat for the Brellinger Second Addition Subdivision after the infrastructure improvements for the Brellinger Third Addition Subdivision had been constructed and installed in that subdivision and dedicated to the City;

(3) The vacation of the subject turn around easement will relieve the City from the burden and responsibility of maintaining that portion of the street; and,

(4) The dedication of the right-of-way to the City by the final subdivision plat for the Brellinger Third Addition Subdivision for the extension of Brellinger Street in the Brellinger Third Addition Subdivision renders it unnecessary for the City to reserve any utility or drainage easements in any portion of the turn around easement that is the subject of this street vacation ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City hereby vacates the following described right-of-way easement for the Brellinger Street Turn Around for the Brellinger Second Addition Subdivision created by the final subdivision plat for said Brellinger Second Addition Subdivision recorded in the Monroe County, Illinois Recorder's Office in Plat Envelope 2-233A, to wit::

ALL OF THE RIGHT-OF WAY EASEMENT FOR THE BRELLINGER STREET TURN AROUND AS SHOWN ON THE PLAT OF THE "BRELLINGER SECOND ADDITION SUBDIVISION" IN THE CITY OF COLUMBIA, ILLINOIS, BEING A SUBDIVISION OF PART OF TAX LOTS #2 AND #3 OF SECTION #4, TOWNSHIP 1 SOUTH, RANGE 10 WEST OF THE THIRD PRINCIPAL MERIDIAN AND ALSO PART OF LOT #1 OF U. S. SURVEY #644, CLAIM #501, MONROE COUNTY, ILLINOIS, REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF MONROE COUNTY, ILLINOIS, IN PLAT ENVELOPE 2-233A, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Part of Tax Lot 3 of the Fractional Section 4, Township 1 South, Range 10 West of the Third Principal Meridian, City of Columbia, Illinois, being more particularly described as follows:

Commencing at an iron pin found that marks the northeast corner of Lot 5 of "Brellinger Second Addition Subdivision", reference being had to the plat thereof recorded in the Recorder's Office of Monroe County, Illinois, in

Envelope 2-233A; thence at an assumed bearing of South 89°44'09" West, along the north line of Lot 5, a distance of 196.39 feet to the Point of Beginning of the herein described tract of land; thence South 89°44'09" West, continuing along the north line of Lot 5, a distance of 25.00 feet to the northwest corner of Lot 5; thence North 00°15'51" West, a distance of 27.77 feet to a point; thence South 89°44'09" West, a distance of 75.00 feet to a point; thence North 00°15'51" West, a distance of 100.00 feet to a point; thence North 89°44'09" East, a distance of 100.00 feet to a point; thence South 00°15'51" East, a distance of 127.77 feet to the Point of Beginning, containing 0.25 acre, more or less.

Section 3. All of the above-described parcel of property that was encumbered by the Brellinger Street Turn Around Easement that is vacated by this ordinance belongs to the Brellinger Land Trust and is part of the Brellinger Third Addition Subdivision, which comprises 28.61 acres, more or less, and is more particularly described as follows:

Part of Tax Lot 3 of Fractional Section 4, Township 1 South, Range 10 West of the Third Principal Meridian, City of Columbia, Monroe County, Illinois being more particularly described as follows:

Commencing at the steel stake with aluminum cap stamped #1638 which marks the Southwest corner of Tax Lot 5 of Fractional Section 4, Township 1 South, Range 10 West of the Third Principal Meridian; thence at an assumed bearing of North 02°15'56" West, a distance of 93.62 feet to an iron bar which marks the Point of Beginning of the herein described tract of land, said iron bar also being the Northeast corner of Lot 5 of "Brellinger Second Addition Subdivision" as recorded in the Recorder's Office of Monroe County, Illinois in Envelope 2-233A; thence along the North line of "Brellinger Second Addition Subdivision", the following courses and distances: South 89°44'09" West, a distance of 221.39 feet to an iron bar; thence North 00°15'51" West, a distance of 27.77 feet to a point; thence South 89°44'09" West, a distance of 361.81 feet to an iron bar which marks the Northwest corner of Tax Lot 1 of U.S. Survey 644, Claim 501; thence departing the North line of "Brellinger Second Addition Subdivision", North 62°04'17" West, along the North line of U.S. Survey 644, Claim 501, a distance of 611.16 feet to the Southwest corner of Tax Lot 3 of Fractional Section 4; thence North 02°01'29" West, along the West line of Tax Lot 3 of Fractional Section 4, a distance of 1090.87 feet to the Northwest corner of Tax Lot 3 of Fractional Section 4 from which an iron bar lies South 02°01'29" East, a distance of 0.17 feet, said point also lying on the South line of U.S. Survey 429, Claim 1800; thence South 70°51'34" East, along the South line of U.S. Survey 429, Claim 1800, a distance of 1227.49 feet to a spike nail which marks the Northeast corner of Tax Lot 3 of Fractional Section 4; thence South 05°04'52" West, a distance of 274.44 feet to a point; thence South 00°23'38" West, a

distance of 140.60 feet to a point; thence South 03°08'04" East, a distance of 136.49 feet to a point; thence South 03°39'47" East, a distance of 186.28 feet to a point; thence South 01°30'11" East, a distance of 177.29 feet to a point; thence South 02°19'47" East, a distance of 70.41 feet to a point; thence South 02°15'56" East, a distance of 15.32 feet to the Point of Beginning, containing 28.61 acres more or less.

Permanent Property Index Number: Part of 04-04-300-003

As a result of the vacation of said Brellinger Street Turn Around Easement said land locate in the Brellinger Third Addition Subdivision in the City will comprise part of the extension of Brellinger Street in the Brellinger Third Addition Subdivision and part of Lot Numbers 1 and 17 of said Brellinger Third Addition Subdivision.

Section 4. All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith, to the extent of such conflict, are hereby repealed.

Section 5. This Ordinance shall be in full force and effect following its passage by a three-fourths (3/4) vote of the Alderman of the City of Columbia, Illinois City Council holding office and approval by the Mayor, as provided by law.

Alderman Stumpf moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Oberfell, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Niemietz, Row, Hejna, Oberfell, Stumpf and Roessler.

NAYS: None.

ABSENT: Alderman Agne.

ABSTENTIONS: None.

PASSED by three-fourths (3/4) vote of the Aldermen of the City of Columbia, Illinois holding office and APPROVED by the Mayor Pro Tem this 19th day of October, 2009.



EUGENE J. EBERSOHL, Mayor Pro Tem

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)