



MEDINA, WASHINGTON

AGENDA BILL

Monday, June 13, 2022

Subject: Revocation of Ord. No. 1007 (Liang Street Vacation; 442 Upland Road)

Category: City Business

Staff Contact(s): Scott Missall, City Attorney; Stephanie Keyser, Planning Manager

Summary

On August 23, 2021, the City received a petition from City resident Kenneth Liang (Liang) to vacate 510 square feet of right-of-way abutting his residence at 442 Upland Road. In accordance with MMC 12.44 and RCW Chapter 35.79, the City Council initiated vacation procedures and held a public hearing on November 8, 2021. After hearing and considering the Staff Analysis and City Presentation, the Council deliberated on the facts and merits of the Liang Petition. A majority of the Council approved a motion to grant the requested vacation subject to payment by the Petitioners of \$63,750 and directed the City Attorney to prepare an ordinance to that effect with such terms and conditions as needed to specify and carry out the Council's intent and the requirements of Medina Municipal Code (MMC) Chapter 12.44.

The City Attorney prepared and submitted Ordinance No. 1007, which was approved by the Council on December 13, 2021. Ordinance No. 1007 contained terms and requirements consistent with MMC Chapter 12.44 that needed to be timely completed by Liang to effectuate the Ordinance. Liang did not complete the requirements of Ordinance No. 1007. Being incomplete, Ordinance No. 1007 was not effectuated and thus not recorded in the King County land title records. On April 13, 2022 Jim Dearth, a representative of Liang, formally advised the City Clerk by email that Liang was not interested in completing the street vacation. A final invoice for all accumulated and unpaid City costs and expenses incurred in connection with the Liang vacation was compiled and submitted to Liang for payment on April 22, 2022, with direction that it be paid within thirty days thereof. A second notice of such invoice was sent on May 25, 2022. The final invoice remains unpaid as of the date of this Agenda Bill.

The City Attorney has prepared Ordinance No. 1011, attached to this Agenda Bill, to carry out the revocation and nullification of Ordinance No. 1007 in accordance with MMC Chapter 12.44 and the foregoing facts. City Staff recommends the Council approve the new ordinance. Separately, City staff will be pursuing collection of the pending invoice.

Attachment

1. Ordinance rescinding Ord. No. 1007 and revoking Liang street vacation

Budget/Fiscal Impact: None.

Recommendation: Adopt Ordinance No. 1011.

City Manager Approval: 

Proposed Council Motion: “I move to adopt Ordinance No. 1011 as presented.”

Time Estimate: 10 Minutes

Ordinance No. 1011

MEDINA CITY COUNCIL

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, REVOKING, RESCINDING AND VACATING ORDINANCE NO. 1007 (LIANG STREET VACATION) FOR FAILURE OF THE APPLICANT TO PERFORM THE REQUIREMENTS AND CONDITIONS OF ORDINANCE NO. 1007 AND AS REQUESTED BY APPLICANT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a Street Vacation Petition containing the petitioner's street vacation materials and those required by Medina City Code (collectively **Liang Petition**) was filed with the City of Medina (**City**) on August 23, 2021, by and on behalf of Kenneth and Laura Liang (**Petitioners**), seeking to vacate 510 sq. feet of public right-of-way in Upland Road belonging to the City and abutting property addressed as 442-438 Upland Road, Medina (also known as 442 87th Ave. NE; Tax Parcel 383550-2385; and as Parcel M of Medina Lot Line Adjustment 20-003 filed under Recording No. 20210610900049; all collectively comprising the **Liang Property**) for the purpose of converting said public right-of-way to private fee ownership and incorporating it into the Liang Property; and

WHEREAS, other specifics of the Liang Petition and the City's action thereon are set forth in Medina Ordinance No. 1007, approved by the City Council on December 13, 2021, and are incorporated herein by this reference; and

WHEREAS, Ordinance No. 1007 contained terms and requirements consistent with MMC Chapter 12.44 that needed to be timely completed by Petitioners to effectuate the vacation. Petitioners did not complete the requirements of Ordinance No. 1007, and thus Ordinance No. 1007 was not recorded in the King County land title records and the vacation of public right of way was never completed; and

WHEREAS, on April 13, 2022 Jim Dearth, a representative of Petitioners, formally advised the City Clerk by email that Petitioners were not interested in completing the street vacation; and

WHEREAS, Medina Municipal Code (MMC) Chapter 12.44 (Street Vacations) provides that the applicant for a street vacation must reimburse the City for all City costs and expenses for processing a vacation request regardless of whether the vacation is approved or denied, and further provides that if any such costs and expenses remain unpaid for 30 days after submittal of a final invoice to the applicant the City Council shall rescind and vacate any approved vacation ordinance; and

WHEREAS, a final invoice for all accumulated and unpaid City costs and expenses incurred in connection with the Liang Petition was compiled and submitted to Petitioners for payment on April 22, 2022, with direction that it be paid within thirty days thereof, all in accordance with MMC Chapter 12.44; and

WHEREAS, a second notice of the final invoice was sent to Petitioners on May 25, 2022. Said final invoice remains unpaid as of the date of this Ordinance; and

WHEREAS, based on the foregoing the Council finds that Ordinance No. 1007 must vacated and rescinded;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings Adopted. The foregoing recitals are adopted as findings and legislative determinations of the City Council in support of its decision to vacate and rescind Ordinance No. 1007.

Section 2. Ordinance No. 1007 Rescinded. The City Council hereby vacates and rescinds Ordinance No. 1007 and declares that the conditional right of way vacation described therein is revoked for failure of the Petitioners to complete the terms of Ordinance No. 1007 and the requirements of MMC Chapter 12.44.

Section 3. Recovery of Final Invoice Amounts Due. City Staff and Attorney are directed to take such steps as appropriate to recover the amount of the final invoice issued to Petitioners and dated April 22, 2022, together with and any other related amounts, all pursuant to the Medina Municipal Code.

Section 4. Corrections. The City Clerk and codifiers of City ordinances are authorized to make necessary corrections to this Ordinance including but not limited to the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 6. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after such publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MEDINA ON THE 13TH DAY OF JUNE 2022 BY A VOTE OF FOR, AGAINST, AND ABSTAINING, AND IS SIGNED IN AUTHENTICATION OF ITS PASSAGE THE 13TH DAY OF JUNE 2022.

Jessica Rossman, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC

Attest:

Scott M. Missall, City Attorney

Aimee Kellerman, City Clerk

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.: / AB