



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: MAY 17, 2022

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JAMIE LAI, P.E., DIRECTOR OF PUBLIC WORKS/ CITY ENGINEER
PREPARED BY: AUSTIN POSTOVOIT, SENIOR MANAGEMENT ANALYST

SUBJECT: RESOLUTION NO. 2022-5801 – INTENT TO VACATE LANDSCAPE EASEMENTS WITHIN TRACT 16144 FOR LOCAL LANDSCAPING ZONE L-5A

RECOMMENDATION

It is recommended that the City Council:

1. Adopt Resolution No. 2022-5801, declaring its intent to vacate designated landscape easements within Tract 16144 (Local Landscape Maintenance Zone L-5A); and
2. Set June 21, 2022, as the Public Hearing date for the vacation process; and
3. Direct staff to obtain release agreements from property owners with approved requests to keep any of the existing on-grade irrigation infrastructure within the proposed vacated easement area.

BACKGROUND

The City's Landscape Maintenance Assessment District (LMAD) currently contains multiple "local" zones where landscaping services are overseen by staff. One such local landscape zone is L-5A (L-5A) which is generally located in the northwesterly portion of the City. In order to contend with L-5A's budgetary needs, the City Council initiated proceedings to levy an increased assessment in November of 2015. During this ballot process, in May of 2016, property owners did not vote in favor of the proposed assessment increase. Subsequently, in November of 2017 after a second ballot process for L-5A, a majority of property owners again did not vote in favor of an assessment increase to funding.

Due to the votes not passing twice, the City vacated certain landscape maintenance easements within L-5A pursuant to the City's LMAD Maintenance Location Guidelines for Deficit Zones and ceased maintenance activities within certain areas. These proceedings included reverting the maintenance responsibilities for the sloped and adjacent landscape areas within the zone back to the underlying property owners. However, there were some easements where the vacation process was initiated but not completed at the time of which the City is now resuming that process.

DISCUSSION

With this proposed vacation action, the City intends to vacate maintenance easements within L-5A, namely adjacent to fifteen (15) properties along Silver Maple Drive and Red Pine Road as depicted in the attached Vicinity Map (Attachment "A"). In addition to the fifteen (15) properties with landscape easements along the two streets, an additional four (4) properties will have maintenance activities ceased. To date, the City and original developer (Toll Brothers) have worked in tandem to irrigate and maintain the landscaping on the sloped area of the properties (19) properties. Toll Brothers, in conjunction with the City and the Orange County Fire Authority, recently updated a Precise Fuel Modification Plan (Fuel Mod) for the landscape slopes within Tract 16144.

Once the proposed vacation process is complete, revisions of the Fuel Mod allows original maintenance responsibility for the slope to revert to the property owner. City staff provided property owners with information regarding OCFA's maintenance requirements for a slope within a Fuel Mod on April 18th, 2022, via certified mail. Staff has since responded to some property owners' questions via telephone meetings and email inquiring about the details of the process and next steps.

Vacation Process:

Streets & Highways Code Section 8300 et seq. sets forth the procedures for vacating public service easements such as the subject landscape easements. First, the City Council adopts a resolution declaring its intent to vacate the easements, instructs the City Clerk to set the hearing, and further, publishes and posts the required notices. By adopting the attached resolutions, the City Council will initiate the process for vacating the designated landscape easements.

The public hearing must be scheduled for a date that is at least fifteen (15) days after the date the proceedings were initiated. Additionally, the notice of the public hearing must be published for two successive weeks prior to the public hearing. Based upon these time constraints, City staff anticipates that the public hearing on the vacation of these easements will occur on June 21, 2022. At the public hearing, the City Council may order the vacation of the designated easements after hearing all testimony and evidence presented by interested persons, if the City Council finds that such designated easements are unnecessary for present or prospective public use.

Pursuant to Government Code section 65402, the Planning Commission will consider making a finding that the proposed disposition of the property is consistent with the City's General Plan. This is scheduled to occur at the next available Planning Commission meeting, which is May 25, 2022.

Irrigation infrastructure:

Staff is requesting authorization from Council to remove existing on-grade irrigation infrastructure once the easement vacation process is imminent. The estimated cost associated with removing the City's on-grade irrigation infrastructure within the sloped landscape easement areas (and the four adjacent properties without easements) displayed in Attachment A is approximately \$9,500. Staff has been authorized to accept, review, and respond to requests to keep above ground irrigation lines in place after easements are vacated and transfer the appropriate irrigation facilities to property owners. There may be a small number of locations where the above ground irrigation system (piping and valves) may be hydraulically useful and easily isolated for the underlying property owner to use. As such, any requests that meet these criteria and can be done without incurring cost to the City will be approved.

Release Agreements:

To protect the City from any future liability of the use of the existing on-grade irrigation infrastructure by property owners, staff recommends that a release agreement be required. The release agreement would be needed if after the review of any property owner's request, keeping the existing on-grade irrigation infrastructure within the boundaries of their property is hydraulically useful and easily isolated at no cost to the City.

Notices:

As previously noted, staff has already contacted the owners of the nineteen (19) subject properties via certified mail to inform them of the forthcoming public hearing, impending maintenance responsibilities and to offer assistance. Additionally, notices will be provided as required by the official vacation process. These include notices of the Public Hearing in the newspaper and the posting of notices within the areas to be vacated. In addition to this, staff intends to mail a second certified letter to the owners, providing an update on the vacation process including the Public Hearing date. Upon approval of this report, City staff will also begin follow-up contact with property owners to confirm whether or not they desire to keep existing irrigation lines in place for property owner use. Once the vacation approval process is completed, staff will work with property owners to execute necessary irrigation transfer and liability release agreements.

FISCAL IMPACT

There are minor costs associated with posting the notices (less than \$300 and staff time). These costs will be covered within the Public Works operating budget. An agreement with the City's consultant Surveyor has already been approved by Council to cover the costs associated with the preparation of legal descriptions and exhibits. An additional cost of approximately \$400 was incurred in order to send out certified letters to the property owners in the Zone. This includes envelopes and postage.

Modifications to and the removal of existing on-grade irrigation infrastructure is estimated to

cost approximately \$9,500. This cost may decrease depending on the total number of acceptable requests from property owners to keep the existing on-grade irrigation infrastructure located on their property. Any portion of the cost not borne by the property owners will be expended out of the LMAD operating account (2010350-432950) for Zone L-5A. There will be a reduction in potential future costs to the Zone by way of removing future maintenance and irrigation responsibilities.

ALTERNATIVES

The Council may direct staff to not proceed with vacating the easements in the manner proposed in this report. However, keeping all of the areas where the City currently has easements and assuming the maintenance responsibilities for those areas would increase operating costs for Zone L-5A.

ATTACHMENTS

1. Attachment A (L-5A Zone and Vicinity Map)
 2. Resolution No. 2022-5801
 3. Draft Legal Descriptions – Exhibit A and Draft Sketches to Legal Description – Exhibit B
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