



20080826001174120 1/4  
Bk: LR200809 Pg:27410  
Jefferson County, Alabama  
I certify this instrument filed on  
08/26/2008 04:24:37 PM RESO  
Judge of Probate- Alan L. King

20080827000343220 1/4 \$53.00  
Shelby Cnty Judge of Probate, AL  
08/27/2008 08:04:20AM FILED/CERT

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Case No. SUB 2008-00058

RESOLUTION NO. 959-08

WHEREAS, there has been exhibited to this Council a duly acknowledged Declaration of Vacation executed by Alex W. Jones, Jr., Marjorie Jones, William C. Wood, Jr., Laura D. Wood, Elias Watson, Lucy Watson, Jim Henderson, Pam Henderson, Ed Anderson, Dee Anderson, Ed Childs, Maxine Childs, Carl Adams, Mims Adams, John Hurst, Nona Hurst, Charles Wingard, Cindy Wingard, Jared Lewis, Charles Workman, Edna Workman, Rizk El-Galley, Tom Adams and the Water Works Board of the City of Birmingham, being the owners, and the reading in part as follows:

KNOW ALL MEN BY THESE PRESENT, that the undersigned, Alex W. Jones, Jr., Marjorie Jones, William C. Wood, Jr., Laura D. Wood, Elias Watson, Lucy Watson, Jim Henderson, Pam Henderson, Ed Anderson, Dee Anderson, Ed Childs, Maxine Childs, Carl Adams, Mims Adams, John Hurst, Nona Hurst, Charles Wingard, Cindy Wingard, Jared Lewis, Charles Workman, Edna Workman, Rizk El-Galley, Tom Adams and the Water Works Board of the City of Birmingham, owners of all lands abutting the portion of public way or ways hereinafter declared vacated, do hereby declare vacated and divested out of the public the portion or portions of unopened public way or ways described as follows, to-wit:

Description of entire width (varies) road right-of-way for Cahaba Beach Road to be vacated; said road right-of-way believed to be 60 feet wide in Jefferson County, as per the tax map, and 50 feet wide in Shelby County, as per the tax map, and the centerline being described as follows:

Part of the S  $\frac{1}{2}$  of Section 24, Township 18 South, Range 2 West, Jefferson County, Alabama, and part of the W  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  and part of the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ , all in Section 25, Township 18 South, Range 2 West, Jefferson and Shelby Counties, Alabama, being more particularly described as follows:

From the SE corner of the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 24, Township 18 South, Range 2 West, Jefferson County, run in a westerly direction along the south line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section for a distance of 75 feet, more or less, to a point in the center of Cahaba Beach Road, being the point of



beginning; thence turn an angle to the left and run in a southerly and southeasterly direction along the centerline of said Cahaba Beach Road for a distance of 2,080 feet, more or less, to a point of intersection with the east line of the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of said Section 24; thence run in a southeasterly direction along the center of said Cahaba Beach Road for a distance of 120 feet, more or less, to a point on the south line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of said Section 24, and being the north line of said Section 25; thence run in a southeasterly, southerly and southwesterly direction along the centerline of Cahaba Beach Road for a distance of 1500 feet, more or less, to a point of intersection with the south line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of said Section 25; thence continue in a southwesterly direction along the centerline of said Cahaba Beach Road for a distance of 500 feet, more or less, to a point where the road turns to the left in a southeasterly direction; thence run in a southeasterly and southerly and southeasterly direction along the centerline of said road for a distance of 1,800 feet, more or less, to a point of intersection with a line that is 10 feet west of the east line of the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of said Section 25, being the point of ending of said road vacation.

The vacation hereinabove declared shall be subject to such conditions and reservations for the benefit of the owners or operators of public utilities or installations in said way or ways as the governing body of the City of Birmingham may see fit to specify in a resolution of assent.

The said owner does further declare that after the vacation hereinabove declared, convenient means of ingress and egress to and from their respective properties will be afforded to all other property owners by the remaining public ways dedicated to the public for public way purposes, and,

WHEREAS, it has been made to appear to this Council that said declarant is the owner of all the land abutting on the portion or portions of public way or ways declared vacated by said Declaration of Vacation and that after the vacation of the said portion or portions of said public way or ways convenient means of ingress and egress to and from their property will be afforded to all other property owners by the remaining public grounds dedicated to the public for public way purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham as follows:

1. After hearing all parties and considering all information presented, the assent of this Council be, and hereby is given and granted to the vacation of the portion, or portions, of public way or ways declared vacated in the above quoted Declaration of Vacation, subject to the conditions and reservations hereinafter set out, and further, this Council finds that all other



property owners will have convenient means of ingress and egress to and from their property by the remaining public grounds dedicated to the public for public way purposes and that it is in the best interest of the public that the above described public way or ways or portions thereof be vacated.

2. That the foregoing assent be and is hereby given upon condition that any entity, including the City of Birmingham, which may now own or rightfully maintain any public utility, facility, line or installation, including any open or closed storm or sanitary sewer, in any portion of any public way hereinabove mentioned, shall have a right and easement to continue to maintain same in its present location therein and to repair, cleanse, improve and reconstruct the same and to have convenient storm water drainage and sanitary sewer means thereto and there from for said purposes, and that there be and is hereby reserved and excluded from the said foregoing assent any assent of this Council to the vacation, annulment or impairment of the right, easement or privilege of any such entity to continue to own, maintain, repair, cleanse, improve, reconstruct and have convenient means of ingress and egress to and from such utility, facility, line or installation.

3. The foregoing provisions for maintenance and for ingress and egress shall mean, among other things and without limitation, that in case any building or edifice shall be constructed or placed in any portion of any of said vacated ways, it shall be constructed, placed or arranged therein so as to avoid damage to any presently existing concealed or unconcealed or patent or latent public utility, facility, line or installation in any such public way and so as to afford ways and means of ingress and egress to and from such utility, facility, line or installation for purpose of reconstruction, repair, cleansing or improvement of service of same, substantially equal to and as convenient as presently existing ways and means of ingress and egress thereto and therefrom such purposes, or such as shall be approved in writing by the owner or operator of such utility, facility, line or installation.

4. This resolution shall be effective only upon the payment of the right-of-way fee within sixty (60) days of the date of this resolution, the recording in the Office of the Judge of Probate of Jefferson County, Alabama, of a map or plat approved by the City Engineer and the Birmingham Planning Commission showing the vacated portion or portions of public way or ways as described above and the boundary lines of the abutting property resulting from the vacation, and



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notice of the governing body's action being published once in a newspaper in the county no later than 14 days after its adoption.

BE IT FURTHER RESOLVED that under the provisions of Act 785 of 1982 the right-of-way vacation fee has been set at \$32,858.76 and the applicant requests that the fee be waived.

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Fee - \$12.00

Total of Fees and Taxes-\$12.00  
LYNN

ADOPTED BY THE  
CITY COUNCIL OF  
BIRMINGHAM ON

August 12, 2008

APPROVED BY THE  
MAYOR  
ON

August 14, 2008

  
CITY CLERK